

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

ROBERT FIREMAN and ANN RAIDER,

Plaintiffs,

v.

Civil Action No. 05-11740-MLW

NEWS AMERICA MARKETING IN-STORE,  
INC.,

Defendant.

**OPPOSITION TO PLAINTIFFS' MOTION TO  
COMPEL RESPONSES TO DISCOVERY REQUESTS FROM DEFENDANT**

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INC.

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## Table of Contents

<b>Introduction.....</b>	<b>1</b>
<b>Preliminary Statement.....</b>	<b>1</b>
<b>Factual Background.....</b>	<b>2</b>
A.    NAM And The Plaintiffs Execute The Stock Purchase Agreement. ....	2
B.    The Plaintiffs Expressly Agree Not To Challenge NAM's Decision- Making, And Agree That NAM Will Be Free To Operate In Accordance With NAM's "Sole And Unfettered Judgment." .....	3
C.    NAM Fully Performs Under The Parties' Agreement, And The Plaintiffs Enjoy Material Earn-Out Payments. ....	6
<b>Procedural Posture Of The Present Motion.....</b>	<b>7</b>
A.    The Plaintiffs' Serve Broad Document Requests. ....	7
B.    NAM Provides A Full And Fair Production, With Supplementations. ....	7
C.    NAM's Production Includes A Range Of Responsive ESI, From Live Locations And Archived Locations On NAM's Network. ....	8
D.    NAM's Network Rules Do Not Require Users To Rely On Tape Backups; It Is Difficult, Time-Consuming, And Expensive To Retrieve Information From These Tapes, And These Constraints Increase Significantly As A Tape Ages Beyond Four To Five Weeks. ....	9
E.    The Plaintiffs Conduct A cursory Review Of NAM's Production. ....	11
F.    The Plaintiffs Demand ESI Stored In NAM's Backup Tapes. ....	11
G.    In Response, NAM Retains An Expert, Who Quantifies The Costs And Burdens Of Producing The ESI The Plaintiffs Demand. ....	12
H.    NAM Informs The Plaintiffs That Their Requests For ESI From Backup Tapes Will Cost Over \$13 Million; The Plaintiffs File The Present Motion. ....	14
I.    In Their Motion, The Plaintiffs Identify No "Gaps" Or Missing Information In NAM's Production. ....	15
<b>Legal Argument.....</b>	<b>17</b>
I.    Under Either The New Rules Or Pre-Existing Case Law, The Plaintiffs' Motion Must Be Denied. ....	17
II.   NAM's Backup Tapes Are Not Reasonably Accessible. ....	17
III.  No "Good Cause" Exists To Support The Plaintiffs' Requests. ....	20
A.    The Plaintiffs' Requests Are Not "Narrowly Tailored," And They Make No Attempt To Specify The Relevance Or Importance Of These Requests To The Case. ....	21

B.	The Plaintiffs Have Enjoyed Ample Discovery.....	22
C.	The Plaintiffs Do Not Show How The Requested ESI Discovery Differs In Any Material Respect From The Full Discovery NAM Has Already Provided. ....	23
D.	NAM Has Produced Extensive, Responsive ESI From Online And Archived Sources, And The Plaintiffs' Claims That NAM's Backup Tapes Offer The "Only Source" For Responsive ESI Are Flatly Incorrect.....	24
E.	There Is No Basis -- As A Matter Of Law -- To The Plaintiffs' Claims That ESI Discovery Will "Likely" Generate Relevant Documents. ....	25
IV.	The Plaintiffs' Claims Have No Substantive Merit, And This Fact Alone Requires Denial Of The Present Motion. ....	26
A.	The Stock Agreement Bars The Plaintiffs' Claims. ....	26
B.	The Plaintiffs Failed to Follow the Agreement's Mandatory Objection Procedures.....	28
C.	The Plaintiffs Accepted NAM's Earn-Out Payments, And Are Now Barred From Challenging These Payments. ....	28
D.	The Plaintiffs Have Not and Cannot Establish any Damages.....	29
<b>Conclusion.....</b>		<b>32</b>
<b>Request for Hearing.....</b>		<b>32</b>

### **Introduction**

Defendant News America Marketing In-Store, Inc. ("NAM")<sup>1</sup> hereby opposes the Motion to Compel of the Plaintiffs, Robert Fireman ("Fireman") and Anne Raider ("Raider"). The Plaintiffs seek to compel NAM to restore and search -- at a cost of over \$13 million -- electronically stored information ("ESI") dated beginning in 1999 and located on (a) approximately 5,000 daily backup tapes covering NAM's email system; and (b) over 150 year-end backup tapes covering NAM's full computer network. In their Motion, the Plaintiffs:

- (i) ignore the extensive production they have already received of NAM's paper files, online ESI files, and archived ESI files;
- (ii) fail to identify how this full production is deficient in any manner;
- (iii) indeed, decline to limit their original, expansive, and vague document requests in any way; and
- (iv) advance no justification for the overwhelming, disproportionate burden they seek to impose on NAM, in light of the meritless nature of their claims and no more than speculative suggestion of damages.

Accordingly, as detailed below (a) ESI on NAM's backup tapes is not reasonably accessible, and (b) the Plaintiffs have not demonstrated the necessary "good cause" to require the restoration and searching of these tapes.

The Plaintiffs' Motion to Compel, therefore, must be denied.

### **Preliminary Statement**

Six years after Plaintiffs Bob Fireman and Ann Raider sold their company to defendant NAM, they instituted this lawsuit because, in a nut shell, they have sellers' remorse. After lengthy contract negotiations and having been fully represented by Goodwin Procter LLP, these

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<sup>1</sup> NAM is a national marketing services company. Its customers are large retailers (such as grocery store chains) and consumer packaged goods manufacturers. As part of its business, NAM develops overall marketing strategies for prospective and current customers; establishes and maintains strategic business relationships; and implements such strategies through the sale of marketing products such as free standing inserts in newspapers, coupon dispensers on store shelves, and other forms of in-store marketing to customers.



two very experienced business people sold their company to NAM in 1999. In so doing Plaintiffs: (i) did not contractually require NAM to do anything with regard to how NAM ran the acquired business assets – nowhere in the Stock Purchase Agreement is there any express requirement that NAM provide any specific kind of support, be it financial or manpower, or that NAM do anything specific with the acquired business; (ii) expressly granted NAM the right to be “free” to operate the acquired business “in its sole and unfettered judgment;” and (iii) expressly agreed that it would have “no claim” against NAM based on NAM’s exercise of that unfettered judgment in running the business. Disappointed in how the business deal ultimately turned out, Plaintiffs sue, claiming NAM breached *implied* obligations it owed them. These alleged *implied* obligations, however, fail as a matter of law since they necessarily contradict the *express* written terms of the parties’ contract. Knowing this lawsuit skirts the bounds of Rule 11, Plaintiffs now bring the instant baseless motion in an effort to extort a settlement, attempting to force NAM to choose between spending more than \$13 million dollars on ESI discovery or paying Plaintiffs millions of dollars to go away. This Motion, like the entire suit, should be rejected.

### **Factual Background**

#### **A. NAM And The Plaintiffs Execute The Stock Purchase Agreement.**

As an experiment to get a toehold in electronic commerce, NAM in August 1999 acquired all the stock of Consumer Card Marketing, Inc. ("CCMI"). CCMI's business, at the time of the acquisition, focused on the implementation of loyalty card programs for grocery stores chains.<sup>2</sup> Such loyalty cards permit the store to generate a database of shoppers and their respective product preferences. In connection with this acquisition, NAM and the Plaintiffs (among others) executed a Stock Purchase Agreement, dated August 13, 1999 (the "Stock

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<sup>2</sup> See Exhibit ("Ex.") 1, NAM Due Diligence Memo dated May 27, 1999, bates numbered NAM3157-3159 ("NAM Due Diligence Memo").

Purchase Agreement").<sup>3</sup> CCMI's performance before the acquisition was modest if not failing. For example, for fiscal year 1998, CCMI experienced a loss of approximately \$150,000 on gross revenues of approximately \$4 million. For the first quarter of 1999 – shortly before NAM's acquisition – CCMI had generated gross revenue of only \$766,420.<sup>4</sup>

Under the terms of the Stock Purchase Agreement, NAM paid CCMI shareholders \$2.8 million in cash.<sup>5</sup> In addition to this compensation, and among other benefits, the Plaintiffs each received five-year employment agreements and, most relevant for this dispute, the possibility of receiving earn-out payments, based on the performance of the acquired business.<sup>6</sup>

**B. The Plaintiffs Expressly Agree Not To Challenge NAM's Decision-Making, And Agree That NAM Will Be Free To Operate In Accordance With NAM's "Sole And Unfettered Judgment."**

Without proper limiting language, earn-out provisions -- of the type provided in the Stock Purchase Agreement -- can provide fertile ground for disputes. Assume an earn-out provision that is based on the achievement of certain performance milestones. Assume further that the achievement of these performance milestones is determined, as is always the case, by, in part, business decisions made by the party responsible for paying the earn-outs (the "Payor"). Without proper limiting language, the potential beneficiary of the earn-out provision is free to challenge and disrupt any number of the Payor's business decisions. The potential beneficiary will claim that the Payor's business decisions failed to optimize performance for achievement of the requisite performance milestones, and failed to generate for the beneficiary the maximum sought-after earn-out payments. An improperly structured earn-out provision, therefore, can

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<sup>3</sup> See Ex. 2, Stock Purchase Agreement.

<sup>4</sup> Ex. 1, NAM Due Diligence Memo, Financial Statements of CCMI for 1998, Q1 1999.

<sup>5</sup> Ex. 2, Stock Purchase Agreement, §2.1.

<sup>6</sup> Ex. 2, Stock Purchase Agreement, §2.3.

allow a beneficiary to "second guess" management, disrupt proper operations of the Payor, and demand performance-based earn-outs irrespective of actual performance.

Well aware of the dangers of an improperly structured earn-out provision, NAM required that the Stock Purchase Agreement contain two key provisions: (i) a provision expressly granting NAM "sole and unfettered" decisionmaking regarding the acquired business together with a clause expressly preventing the Plaintiffs from *challenging* NAMs' "sole and unfettered" decisionmaking; and (ii) a provision requiring the Plaintiffs to raise objections to their earn-out payments within twenty business days of the payment, and resolve any disputes through accountant-run arbitration. Accordingly, Section 6.8 of the Stock Purchase Agreement provides, in relevant part, as follows:

It is Buyer's [NAM's] current intention to provide support to the business of the Company [CCMI] by, among other things, (i) utilizing Buyer's sales force in order to promote the sale of the Company's products, (ii) assisting the Company in the creation of long-term relationships with retailers, and (iii) investing in software and hardware as needed to expand the Company's business. Notwithstanding the foregoing, *Buyer shall be free to operate the Company and its Affiliates in its sole and unfettered judgment and Sellers [Fireman and Raider] shall have no claim against Buyer in connection therewith as a result of the preceding sentence.*"<sup>7</sup> (emphasis added)

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<sup>7</sup> Ex. 2, Stock Purchase Agreement, §6.8 (emphasis added). The Plaintiffs appear to claim that pre-existing, extrinsic documents or discussions alter this express language of the Stock Purchase Agreement. See Motion to Compel at 2 ("the Defendant agreed it would commit its resources and run Plaintiffs' company [CCMI] in such a way as to permit it to continue its growth and execute its business plan").

The Plaintiffs are incorrect. The Stock Purchase Agreement contains an "integration clause." It states: "This Agreement (together with the Schedules hereto) contain, and are intended as, a complete statement of all of the terms of the arrangements between the parties with respect to the matters provided for, and supersedes any previous agreements and understandings between the parties with respect to those matters." Ex. 2, Stock Purchase Agreement, §8.1.

This clause operates as a *complete bar* to any claim that prior exchanges between the Plaintiffs and NAM alter the Agreement. See, e.g., *Primex Int'l Corp. v. Wal-Mart Stores, Inc.*, 89 N.Y.2d 594, 599 (1997) ("[T]he purpose of a general merger provision, typically containing the language found in the clause of the parties' 1995 Agreement that it 'represents the entire understanding between the parties,' is to require full application of the parol evidence rule in order to bar the introduction of extrinsic evidence to vary or contradict the terms of the writing ..."). See also *Marine Midland Bank-Southern v. Thurlow*, 53 N.Y.2d 381, 387 (1981) (where plaintiff enjoys "sole discretion" to "direct the 'order or manner of the disposition'" of collateral pledged by defendant under integrated security agreement, defendant precluded from "attempt[ing] to establish the existence of an oral agreement" that "clearly contravenes the express terms of these agreements and completely negates the plaintiff's right under the

Nowhere in the Stock Purchase Agreement is there even a single express requirement as to how NAM was to supposed to run or support the acquired business. Plaintiffs, two sophisticated business people who were represented by the firm of Goodwin Procter LLP throughout the sale negotiations, freely bargained away any such express limitations on NAM and expressly agreed that NAM was “free” to run the acquired the business in its “sole and unfettered judgment.”

In addition, Section 2.3(c) provides, in relevant part:

In the event that the Principal Sellers [the Plaintiffs] desire to dispute any Buyer's Calculation [concerning the earn-out payments], the Principal Sellers shall, within twenty (20) Business Days following receipt of such Buyer's Calculation, deliver to Buyer written notice setting forth, in detail, their objections to such Buyer's Calculation (the "Objection Notice"), which dispute shall be resolved in accordance with the procedure outlined in Section 2.2(b) [providing for accountant-run arbitration].<sup>8</sup>

The accountant-run arbitration provision required each party to *designate* an accounting firm to resolve earn out disputes that remained after the parties had discussed them.<sup>9</sup> If, after 30 days, the two accounting firms were unable to resolve the disputed issue, then that dispute was to be submitted for a final and binding decision to a third nationally recognized independent accounting firm. Once the third accountant made his final and binding decision, the earn out would be paid with interest at 150 basis points above prime from the applicable base earn out payment date. Ex. 2, § 2.2(b).

The Stock Purchase Agreement thus protects NAM against the potential risks, outlined above, of earn-out provisions by (a) preventing the Plaintiffs from challenging NAM's exercise

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defendant's security agreement to release and apply the [] collateral as it deemed appropriate."); *Unisys Corp. v. Hercules Inc.*, 224 A.D.2d 365, 368 (N.Y. App. Div. 1st Dept. 1996) ("Having declared the contract to be the entire agreement, the law regards it as not merely the best but the *exclusive evidence* of the parties' intent ...") (prohibiting plaintiff from introducing extrinsic evidence to contradict the terms of an integrated agreement) (emphasis supplied).

<sup>8</sup> Ex. 2, Stock Purchase Agreement, §2.3(c) (emphasis added).

<sup>9</sup> Ex. 2, Stock Purchase Agreement, §2.2(b).

of its "sole and unfettered" judgment, (b) requiring the Plaintiffs to bring any disputes over the calculation of their earn-out to NAM's attention, for prompt resolution, and (c) providing that any dispute that cannot be so resolved by the principals must be resolved by accountants chosen by the parties.

**C. NAM Fully Performs Under The Parties' Agreement, And The Plaintiffs Enjoy Material Earn-Out Payments.**

NAM has fully performed under the Stock Purchase Agreement. Indeed, during the five-year earn-out term, NAM paid Plaintiffs earn-out payments totaling \$771,985.<sup>10</sup> The Plaintiffs, in addition, employed Section 2.3(c)'s dispute procedures frequently. Yet in no case did the Plaintiffs bother to take any grievance to accountant arbitration.<sup>11</sup> They worked out any issues with NAM management and accepted without reservation the earn-out payments wire-transferred into their accounts.

In August 2005, approximately one year after expiration of the five-year earn-out period, and the five-year term of their NAM employment agreements, the Plaintiffs filed this action, claiming that NAM's business decisions regarding CCMI resulted in the Plaintiffs' not receiving as much in earn-out payments as they had wished. According to their Motion and deposition testimony, Plaintiffs believe that the Stock Purchase Agreement contains *implicit* obligations and restrictions on how NAM was supposed to support and run the acquired business -- ignoring the *express* "sole and unfettered judgment" language of Section 6.8 and the integration clause -- and that NAM breached these implicit obligations. As is readily apparent, these alleged implicit obligations conflict directly with the express language of the parties' contract.

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<sup>10</sup> Ex. 3, Tabulation of Earn-Out Payments.

<sup>11</sup> Ex. 4, Fireman Depo. Excerpts, at 181:17-183:23.

**Procedural Posture Of The Present Motion**

**A. The Plaintiffs' Serve Broad Document Requests.**

In June, 2006, the Plaintiffs served their First Set of Requests for Production of Documents and Things (the "Requests for Production"). The Requests for Production contained forty (40) separately numbered requests, and sought an expansive range of information, with requests such as the following:<sup>12</sup>

<b>Request No.</b>	<b>Text of Request</b>
1	All documents that refer, reflect or relate to Consumer Card Marketing Inc. ("CCMI").
39	All documents which refer, reflect or relate to Ann Raider or Robert Fireman.
40	All documents which refer, reflect or relate to the loyalty marketing industry, including but not limited to business plans, reports, studies, or surveys received or prepared at anytime from 1997 to the present.

**B. NAM Provides A Full And Fair Production, With Supplementations.**

NAM responded to these Requests, raised certain objections,<sup>13</sup> and compiled responsive documents and materials. Specifically, in September, 2006, NAM made its initial production materials available to the Plaintiffs for review. This initial production consisted of (i) 60 labeled three-ring binders of documents; (ii) 5 redwelds of non-privileged documents from the files of Deborah Wolfe, Esquire (transaction counsel for NAM); and (iii) 17 banker's boxes containing (a) the working files of Raider and Fireman, (b) promotional materials, and (c) other materials. These banker's boxes contained over 290 separate files of requested materials.<sup>14</sup>

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<sup>12</sup> Ex. 5, Requests for Production.

<sup>13</sup> Ex. 6, Responses to Requests for Production.

<sup>14</sup> Declaration of N. Hulme ("Hulme Decl."), ¶¶4-9.

In early 2007, NAM supplemented this initial production, and made further documents and materials available to the Plaintiffs. This supplementary production consisted of (i) 18 additional labeled binders of documents; (ii) 3 redwelds of additional identified documents from Henri Lellouche; (iii) one redweld of identified documents from Marty Garofalo; and (iv) one redweld of meeting minutes.<sup>15</sup> In April of 2007, NAM further supplemented its responses, to include additional meeting minutes.<sup>16</sup>

**C. NAM's Production Includes A Range Of Responsive ESI, From Live Locations And Archived Locations On NAM's Network.**

NAM included responsive Electronically Stored Information ("ESI") in its production. Henri Lellouche ("Lellouche"), the Plaintiffs' primary supervisor at NAM, for example, retained in his network account all important email and other documents he generated or received.<sup>17</sup> Lellouche runs the vast majority of his projects using digital files, and not paper files. Lellouche, therefore, took care to retain all important digital files.<sup>18</sup> Upon being presented with the Plaintiffs' Requests for Production, Lellouche searched the hard drive of his computer, and the network shared drives to which he had access, using keywords tailored to the Plaintiffs' Requests.<sup>19</sup> Lellouche conducted these searches in all online, "live" locations, as well as all archived locations, covering the period 1999 through 2004.<sup>20</sup> These searches uncovered responsive ESI.

At Lellouche's direction, the NAM IT Department conducted similar ESI searches, using similar keywords. The NAM IT Department similarly uncovered responsive information from

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<sup>15</sup> Hulme Decl., ¶¶14-16.

<sup>16</sup> Hulme Decl., ¶22.

<sup>17</sup> Declaration of H. Lellouche ("Lellouche Decl."), ¶8-11.

<sup>18</sup> Lellouche Decl., ¶10.

<sup>19</sup> Lellouche Decl., ¶12.

<sup>20</sup> Lellouche Decl., ¶13-14.

NAM's online and archived accounts.<sup>21</sup> This ESI was included in the productions made available and provided to the Plaintiffs.<sup>22</sup>

**D. NAM's Network Rules Do Not Require Users To Rely On Tape Backups; It Is Difficult, Time-Consuming, And Expensive To Retrieve Information From These Tapes, And These Constraints Increase Significantly As A Tape Ages Beyond Four To Five Weeks.**

The documents sought by the Plaintiffs fall under the so-called "Windows environment" at NAM, which is concerned with the creation, modification, saving, and backing up of Word documents, Excel documents, Email (including attachments), and Power Point documents.<sup>23</sup> The Windows environment at NAM is extensive, and consists of approximately 200 servers, arranged in a "meshed" network, and located in approximately 20 office locations throughout North America.<sup>24</sup>

Users save and archive files and email in the Windows environment to their local hard drives, and to shared network drives.<sup>25</sup> Files and email in NAM's Windows environment are then backed-up to sets of backup tapes. The tapes are created on certain cycles (ranging from daily to year-end), from servers located in various NAM offices. They are retained for differing periods of time, depending upon the nature of the information.<sup>26</sup> Restoring these backup tapes is a complex process.<sup>27</sup> Presented with a backup tape from 2000, for example, the IT Department

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<sup>21</sup> Lellouche Decl., ¶¶15-16.

<sup>22</sup> Lellouche Decl., ¶¶17-18.

<sup>23</sup> Declaration of A. McBean ("McBean Decl."), ¶¶5-6.

<sup>24</sup> Ex. 7, Deposition Transcript of A. McBean ("McBean Depo.") at 21:12-22:17.

<sup>25</sup> Ex. 7, McBean Depo. at 96:17-97:18.

<sup>26</sup> Ex. 7, McBean Depo. at 70:15-71:14 (method for backing up the 20 offices); 72:2-72:20 (backup structure over time); 73:17-74:22 (frequency of backups); 75:6-75:18 (incremental vs. full system backup).

<sup>27</sup> Ex. 7, McBean Depo. at 87:9-88:11; 90:22-91:19.



would need to re-create and "build" the environment and infrastructure that existed in 2000 in order simply to recover the data before commencing any searches.<sup>28</sup>

Even for recent backup tapes – those created within the past four to five weeks, where re-creating a legacy environment is *not* required – NAM's IT Department will *not* restore or search the tape unless there is a strong business justification, and the user provides pinpoint information either (a) identifying the location of the file that is the target of the search; (b) supplying the date of the email that is the target of the search; or (c) providing other specific information to allow a targeted search.<sup>29</sup> As a rule, NAM's IT Department will not restore recent backup tapes if the user requests a broad search -- such as a search using keywords -- due to the time-consuming and resource-intensive nature of the process. It is, accordingly, uncommon for a backup tape older than four to five weeks to be the subject of restoration efforts.<sup>30</sup>

In any event, NAM's network rules do *not* require users to rely on backup tapes in any way. Users, instead, are able to retain files in NAM's Windows environment indefinitely.<sup>31</sup> For example, if a user retains a file from 1999, that file will exist today in at least two locations: the file will reside (i) live on the shared network drives (or the user's hard drive or archives), and (ii)

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<sup>28</sup> See Ex. 7, McBean Depo. at 87:15-88:11 ("Q. What would it take to these what's on those annual tapes? Would we have to put them on a computer? A. *We would have to put them onto a DLT backup system, load software and then go through a recovery process.* Q. How much time would that take? A. *I would need the infrastructure to recover to.* So you need resources and then depending on -- well, if you're recovering everything that's on the New York side *it all depends on how much data we're backing up and what types of systems I'm restoring to.* So I can't answer that question without actually looking at what I'm going to restore. Q. When you put the tape in, these annual tapes, you can look just at the Outlook files, is that correct? A. *No.*"); *id.* at 90:22-91:12 ("Q. But if you had to look at those backup tapes, that's something that could be done, you have the resources to do that? ... A. *No, I'd have to acquire the resources to go through and look at that data.* Q. And what resources would you have to acquire? You have NT40, right? A. Right. I have NT40. *I would have to build the environment and then recover the data and at that point the Exchange server will be up for lack of a better term.*") (emphasis added).

<sup>29</sup> McBean Decl., ¶¶7-9.

<sup>30</sup> McBean Decl., ¶10.

<sup>31</sup> Ex. 7, McBean Depo. at 59:4-59:13 ("Q: Were employees limited to an amount of E-mail that they could store on their desktops? A. Yes. Q. Okay. What was the limit? A. *On their desktops they had no limit. On the servers the limit was, and again it differed by employee, but the general limit, it was about eighty meg.*") (emphasis added).

in the backup tapes.<sup>32</sup> These are the network rules that Lellouche employed, for example, to retain CCMI-related and Plaintiffs-related ESI online (and in his archives).

#### **E. The Plaintiffs Conduct A cursory Review Of NAM's Production.**

The Plaintiffs reviewed NAM's original production on September 28, 2006, for a few hours. The Plaintiffs then requested that NAM copy just 3,532 pages out of this production.<sup>33</sup> By way of rough comparison, a banker's box, reasonably packed, holds approximately 3,500 documents, and NAM's production consisted of documents in 60 binders, 17 banker's boxes, and 5 redwelds. The Plaintiffs spent similar efforts reviewing NAM's supplementation to its initial production. On February 1, 2007, the Plaintiffs reviewed the supplemental production, and also requested that the initial production be made available for their review, a second time.<sup>34</sup> At this review session, the Plaintiffs again spent a few hours. The Plaintiffs later requested 1,108 pages of documents.<sup>35</sup>

As discussed below, the Plaintiffs have made little apparent effort to review or digest the documents NAM has produced.

#### **F. The Plaintiffs Demand ESI Stored In NAM's Backup Tapes.**

During the period October 2006 through January 2007, the parties exchanged correspondence concerning the breadth of the Plaintiffs' Requests for Production, NAM's

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<sup>32</sup> Ex. 7, McBean Depo. at 96:17-97:18 ("Q. Am I correct then if documents exist from the years 1999 and 2000 the only place they're going to be are on those annual tapes, they are not otherwise backed up at any location? A. Data can exist on the file servers that stretch back as far as 1999. So if it's still on our file servers today it's online or it could be on the year-end tapes. Q. Okay. But E-mail from that time period, the only place that's going to be is on those tapes, right? A. E-mail from that time period would be on those tapes or in Outlook PST files that may exist on end users' computers. Q. Right. If the end user archived the E-mail themselves then they exist on the computer still? A. Uh-huh. Q. Correct? A. (Indicating.) Q. Otherwise they're on those tapes? A. Correct.") (emphasis added).

<sup>33</sup> These documents were bates numbered NAM00325 – NAM03857. Hulme Decl., ¶12.

<sup>34</sup> Hulme Decl., ¶¶17-18.

<sup>35</sup> These documents were sequentially numbered NAM03858 – NAM04966. Hulme Decl., ¶¶19-20. Rather than inspect the materials supplemented in April, the Plaintiffs asked that they be copied in their entirety. These documents were sequentially numbered NAM04967 – NAM07225. Hulme Decl., ¶22.

production, the inclusion of ESI, and related points.<sup>36</sup> The Plaintiffs claimed, for example, that the production lacked sufficient ESI in the form of email communications, and lacked sufficient meeting minutes. NAM responded to these claims, in part, by conducting further paper and ESI searches. As a result of these additional efforts, NAM located and produced, for example, additional meeting minutes.<sup>37</sup> NAM also informed the Plaintiffs that ESI resident on backup tapes was not reasonably accessible.<sup>38</sup>

When the Plaintiffs continued to remain dissatisfied with the production, and to demand ESI resident on backup tapes, NAM produced Alfred McBean ("McBean"), its Vice President of Windows Technology, to testify concerning NAM's ESI practices, and tape backup practices.<sup>39</sup> Yet deposing McBean did not satisfy the Plaintiffs, and they continued to demand production of ESI stored on NAM's backup tapes.

**G. In Response, NAM Retains An Expert, Who Quantifies The Costs And Burdens Of Producing The ESI The Plaintiffs Demand.**

Given the Plaintiffs' demands for ESI from backup tapes, NAM engaged an electronic discovery and forensic expert, Richard Davis ("Davis"), an attorney and former IBM engineer.<sup>40</sup> Davis's assignment consisted of (i) reviewing the Plaintiffs' Requests for Production; and (ii) estimating the costs of restoring NAM's backup tapes, and searching the resulting files to potentially locate and produce further materials potentially responsive to these Requests.<sup>41</sup> Davis interviewed various NAM Information Technology ("IT") personnel; reviewed NAM's

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<sup>36</sup> See Ex. 8, Letter dated 10/30/06 from Rich to Katz; Ex. 9, Letter dated 12/12/06 from Katz to Rich; Ex. 10, Letter dated 1/5/07 from Rich to Katz; Ex. 11, Letter dated 1/26/07 from Katz to Rich.

<sup>37</sup> These meeting minutes are numbered NAM04967 – NAM07225. Hulme Decl., ¶22.

<sup>38</sup> E.g., Ex. 9, Letter dated 12/12/06 from Katz to Rich at 2; Declaration of G. Katz ("Katz Decl."), ¶15.

<sup>39</sup> The deposition transcript of Mr. McBean is Ex. 7.

<sup>40</sup> See Declaration of Richard Davis ("Davis Decl."). Mr. Davis' CV is appended as Exhibit A, thereto.

<sup>41</sup> Davis Decl., ¶5.

network structure, particularly the Windows environment;<sup>42</sup> and reviewed NAM's backup systems in detail, with a particular focus on (i) the year end full system tapes (the "Year-End Full-System Tapes"), and (ii) the daily backup tapes for the Email system, which is resident on Exchange Servers (the "Daily Exchange Tapes").<sup>43</sup>

Davis determined that these two forms of backup were not duplicative, and would *both* need to be searched to comply with the Plaintiffs' Requests. NAM's Year-End Full-System Tapes represent a "snapshot," on an annual basis, of the entire NAM network. In contrast, NAM's Daily Exchange Tapes constitute a "moving picture" series of images – on a daily basis – of a portion of the NAM network. As determined by Davis, the Daily Exchange Tapes provide a more complete view of NAM email communications over time than the Year-End Full-System Tapes, while the Year-End Full-System Tapes provide a more complete view of the overall NAM network.<sup>44</sup>

Davis then determined that Year-End Full-System Tapes and Daily Exchange Tapes potentially relevant to the Plaintiffs' broad Requests for Production were located in four NAM offices -- Chicago, New York, Toronto, and Wilton, Connecticut -- and determined that 154 Year-End Full-System Tapes, and over 5,000 Daily Exchange Backup Tapes would need to be analyzed to comply with the Plaintiffs' Requests.<sup>45</sup> Davis then compiled information on the steps necessary (i) to restore these tapes, to allow a review of the information they contain; (ii) to search the resulting restored data sets; (iii) to locate materials responsive to the Plaintiffs' Requests for Production; and (iv) to produce relevant documents.<sup>46</sup> Based on this analysis,

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<sup>42</sup> NAM's Windows Environment is described in further detail above, in the text surrounding footnote 23.

<sup>43</sup> Davis Decl., ¶¶7-9.

<sup>44</sup> Davis Decl., ¶12.

<sup>45</sup> Davis Decl., ¶¶10-11, 13, 20, 27.

<sup>46</sup> Davis Decl., ¶¶14-15, 19-25 (for Year-End Full-System Tapes), 26-33 (for Daily Exchange Tapes).

Davis concluded that a "defensible, forensically sound processing of data" in accordance with the Plaintiffs' demands would require the following expenditures:

Year-End Full-System Tapes: <sup>47</sup>	\$4.5 million
Daily Exchange Tapes: <sup>48</sup>	\$9.1 million
Total Costs: <sup>49</sup>	<u>\$13.6 million</u>

The Plaintiffs' Requests, therefore, presented a staggering burden to NAM.<sup>50</sup> (Further, the \$13.6 million cost does *not* include NAM's cost to review the search results for privileged communications.)

**H. NAM Informs The Plaintiffs That Their Requests For ESI From Backup Tapes Will Cost Over \$13 Million; The Plaintiffs File The Present Motion.**

On April 27, 2007, counsel for the parties met in person at Plaintiffs' counsel's office to discuss their positions concerning the production of ESI from the backup tapes.<sup>51</sup> Defendant's counsel disclosed that NAM had retained an electronic discovery and forensic expert (Mr. Davis), in light of the Plaintiffs' demands for ESI from backup tapes, and the inaccessible nature of this information.<sup>52</sup> Defendant's counsel stated that this expert had determined (a) that restoring and searching for potentially responsive ESI from the year-end, full system backup tapes would cost approximately \$4.5 million; and (b) that restoring and searching for potentially

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<sup>47</sup> Davis Decl., ¶24.

<sup>48</sup> Davis Decl., ¶32.

<sup>49</sup> Davis Decl., ¶46.

<sup>50</sup> In a concluding footnote, the Plaintiffs suggest that a "sampling" of the backup tapes should be conducted, as an "initial procedure." Motion at 7, n.3. The Plaintiffs provide no guidance as to what this sampling would cover, and suggest that such a sampling is straightforward. Anticipating such a request, and wanting to provide a complete assessment in any event, Davis had already performed various analyses to determine the requirements and costs of an approach that would rely on initial sampling. In his analysis of an initial sampling, Davis did the following: (i) he limited the sample to Year-End Full-System backup tapes, and (ii) he limited the scope of the sample to just 26 tapes. Using the same methodologies he employed for the complete analysis, Davis concluded that the costs of even this limited sampling would be *\$1.1 million*. Davis Decl., ¶¶13, 34-43.

<sup>51</sup> Katz Decl., ¶13.

<sup>52</sup> Katz Decl., ¶15.

responsive ESI from the daily email backup tapes would cost approximately \$9.1 million.<sup>53</sup>

Without further substantive discussion, the Plaintiffs shortly thereafter filed the present Motion.<sup>54</sup>

**I. In Their Motion, The Plaintiffs Identify No "Gaps" Or Missing Information In NAM's Production.**

In their Motion, the Plaintiffs choose *not* to identify – within their broad requests – *any* specific documents that they assert are missing from NAM's production.<sup>55</sup> Instead, they falsely assert that backup tapes are the *only* source for locating possible responsive documents that might not already have been produced.<sup>56</sup> As demonstrated by McBean's testimony,<sup>57</sup> Lellouche's testimony,<sup>58</sup> and the production itself, the Plaintiffs' "sole source" claim is wildly incorrect.

For example, the Plaintiffs originally claimed that NAM's production lacked responsive email,<sup>59</sup> and lacked meeting minutes.<sup>60</sup> On the assumption that the Plaintiffs continue to seek

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<sup>53</sup> Katz Decl., ¶¶16-17.

<sup>54</sup> Notably, Plaintiffs failed to disclose this overwhelming cost to the Court in their Motion or that they had been *informed* of this cost prior to the Motion's filing.

<sup>55</sup> The Plaintiffs do not identify a document request or requests by number, and do not identify any keywords they wish searched. Instead, they claim that all daily and year-end backup tapes must be searched. Motion to Compel at 4 ("These *daily backup tapes* containing e-mail from the relevant time period in this case *must be searched to uncover responsive and relevant documents* critical to resolving this case"); *id.* at 4 ("Plaintiffs request that the Court order the Defendant to *search the daily e-mail backup tapes and year-end backup tapes* which very likely contain information responsive to Plaintiffs' document requests and highly relevant to this case") (emphasis added).

<sup>56</sup> *See, e.g.,* Motion to Compel at 1 ("NAM has refused to produce requested documents, specifically *electronic documents that exist only on daily e-mail backup tapes and year-end backup tapes*"); *id.* at 4 ("The e-mails and other electronic documents on these backup tapes *are not available from any other source* and a search will almost undoubtedly discover responsive and relevant documents"); *id.* at 5 ("Importantly, *these e-mails and electronic documents are not available from other sources*"); *id.* at 6-7 ("*As no other source* for these documents exists, the search will not be cumulative or duplicative and is absolutely necessary to uncover critical documents") (emphasis added).

<sup>57</sup> *See* the discussion, above, surrounding footnotes 31 & 32.

<sup>58</sup> *See* the discussion, above, surrounding footnotes 17 through 22.

<sup>59</sup> *See* Ex. 8, Letter dated 10/30/06 from Rich to Katz at 1 ("While certain limited *emails* and documents were made available (in non electronic form) for our review, we were unable to located [sic] any files belonging to any of the following individuals...") (emphasis added).

additional – albeit entirely undefined – email and meeting minutes, NAM's counsel has compiled a review of the internal email and the meeting minutes contained within the production.<sup>61</sup> Over 1,800 internal emails – meaning emails between NAM employees – are included in NAM's production.<sup>62</sup> These emails reference over 244 NAM personnel, and cover the period beginning in 1999 and continue beyond the expiration of the Plaintiffs' contracts in 2004.<sup>63</sup> In addition, over 570 meeting minutes are included in the production. These minutes similarly cover the period beginning in 1999 and continue beyond the expiration of the Plaintiffs' contracts in 2004.<sup>64</sup>

As a further example, the Plaintiffs make certain specific claims in their Answers to Interrogatories. These include claims concerning loyalty marketing services,<sup>65</sup> the Hispanic market,<sup>66</sup> and gift card programs.<sup>67</sup> A review of file folders produced to the Plaintiffs reveals numerous files that discuss these issues.<sup>68</sup>

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<sup>60</sup> See Ex. 8, Letter dated 10/30/06 from Rich to Katz at 2 ("In addition, my clients believe that NAM has failed to produce *all meeting minutes* for meetings attended by Ann Raider or Robert Fireman") (emphasis added).

<sup>61</sup> In light of the silence of the Plaintiffs' Motion, it is unclear whether the Plaintiffs (a) have abandoned their objections concerning email and meeting minutes, or (b) instead include these objections generally within their demands for "ESI on backup tapes."

<sup>62</sup> Ex. 12 lists all of these email by date. See Hulme Decl., ¶¶27-28.

<sup>63</sup> Ex. 13 (listing addressees on internal email). See Hulme Decl., ¶29.

<sup>64</sup> Ex. 14 (listing meeting minutes). See Hulme Decl., ¶31.

<sup>65</sup> See Ex. 15, Fireman's Answers to First Set of Interrogatories Propounded by the Defendant ("Fireman Ans. to Ints.") at 9 and 13 ("NAM eliminated Ms. Raider and Mr. Fireman's position as a 'thought leader' for *loyalty marketing* – CCMI spent years developing a reputation as a leader in *loyalty marketing*...NAM eliminated the Marketing Analysis (MAS) tool with no other product to replace it – CCMI had over 1,000 supermarkets using the MAS software to track their *loyalty card holder programs*") (emphasis added).

<sup>66</sup> See Ex. 15, Fireman Ans. to Ints. at 14-15 ("The *Hispanic Market* was large and growing and the community had a real need for a stored value money card. Even when CCMI fostered relationships with the White House, built relationships with major banks to process the transactions and the Mexican business leaders who would promote the product, NAM refused to provide the internal resources or sales support to launch the program") (emphasis added).

<sup>67</sup> See Ex. 15, Fireman Ans. to Ints. at 14 ("NAM did not fund the expansion of the business to keep pace with market trends – CCMI was prevented from expanding the *gift card program* for retailers") (emphasis added).

<sup>68</sup> See Hulme Decl., ¶¶8-9; Ex. 19, Index of Files - File No. 4 (loyalty marketing); File No. 12 (gift card program); File No. 15 (loyalty marketing); File No. 20 (loyalty marketing); File No. 21 (loyalty marketing); File No.



### Legal Argument

#### **I. Under Either The New Rules Or Pre-Existing Case Law, The Plaintiffs' Motion Must Be Denied.**

Whether the Court analyzes the present Motion under the new Federal Rules concerning Electronically Stored Information ("ESI"), or analyzes the Motion under pre-existing case law, the result is the same: the Plaintiffs' Motion to Compel is groundless and must be denied.

#### **II. NAM's Backup Tapes Are Not Reasonably Accessible.**

It is black-letter law that a party is *not* required to provide discovery of electronically stored information from sources that are not reasonably accessible, due to either undue burden or undue cost. Fed. R. Civ. P. 26(b)(2)(B); *Zubulake v. UBS Warburg LLC*, 217 F.R.D. 309, 320 (S.D.N.Y. 2003). The party opposing such discovery – here, NAM – bears the initial burden of demonstrating that the requested ESI is not reasonably accessible. Fed. R. Civ. P. 26(b)(2)(B) ("[T]he party from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost"). NAM has met this burden.

First, ESI stored on *backup* tapes presumptively qualifies as "not reasonably accessible." *See Zubulake*, 217 F.R.D. at 320 ("Backup tapes must be restored ... fragmented data must be de-fragmented, and erased data must be reconstructed, all before the data is usable. That makes such data *inaccessible*."); *Quinby v. Westlb AG*, 2005 WL 3453908, at \*7 n.8 (S.D.N.Y. 2005) ("Back-up tapes are considered an *inaccessible format* and not readily usable") (emphasis added throughout). "Data on backup tapes used for disaster recovery purposes is usually regarded as

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22 (loyalty marketing); File No. 23 (loyalty marketing); File No. 87 (loyalty marketing); File No. 88 (loyalty marketing); File No. 151 (Hispanic market); File No. 163 (loyalty marketing); File No. 175 (loyalty marketing); File No. 181 (loyalty marketing); File No. 183 (loyalty marketing); File No. 183 (gift card program); File No. 200 (loyalty marketing); File No. 201 (loyalty marketing); File No. 204 (loyalty marketing); File No. 209 (loyalty marketing); File No. 213 (loyalty marketing); File No. 218 (gift card program); File No. 222 (gift card program); File No. 228 (loyalty marketing); File No. 229 (loyalty marketing); File No. 229 (gift card program); File No. 241 (loyalty marketing); File No. 244 (gift card program); File No. 246 (gift card program); File No. 248 (gift card program); File No. 253 (loyalty marketing); File No. 254 (gift card program); File No. 262 (loyalty marketing); File No. 266 (loyalty marketing).



inaccessible, because such tapes function to quickly undo catastrophic systems failure, not as a filing cabinet." Grant J. Esposito and Thomas M. Mueller, *Backup Tapes, You Can't Live With Them and You Can't Toss Them; Strategies for Dealing with the Litigation Burdens Associated with Backup Tapes Under the Amended Rules of Civil Procedure*, 13 RICH. J.L. & TECH. at p. 3 (2006).<sup>69</sup> See also *Cache La Poudre Feeds, LLC v. Land O'Lakes, Inc.*, 2007 WL 684001, at \*15 (D. Colo. 2007) ("One ... source of [not reasonably accessible] information might be *backup tapes*"). See generally Shira A. Scheindlin, *Moore's Federal Practice, E-Discovery: The Newly Amended Federal Rules of Civil Procedure* at pp. 15-16 (2006) ("[E]xamples of [not reasonably accessible] sources, given today's technology, might include *back-up tapes*").

Second, the burden of restoring, searching, locating, and producing potentially responsive ESI from NAM's backup tapes is overwhelming, and far out of proportion to the claims in this action. The Windows environment at NAM – which houses data covered by the Plaintiffs' requests – resides on approximately 200 servers, located in 20 offices throughout North America.<sup>70</sup> Given the Plaintiffs' Requests, locating responsive ESI requires resort to 154 Year-End Full-System Tapes that backup this full system, and over 5,000 Daily Exchange Tapes that backup the email system.<sup>71</sup> Each of these tapes would need to be "restored" – meaning rebuilt,

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<sup>69</sup> See also, *Rowe Entm't, Inc. v. William Morris Agency, Inc.*, 205 F.R.D. 421, 429 (S.D.N.Y. 2002) ("Backup-up tapes, for example, are not archives from which documents may easily be retrieved. The data on backup tape are not organized for retrieval of individual documents or files, but for wholesale, emergency uploading onto a computer system. Therefore, the organization of the data mirrors the computer's structure, not the human records management structure, if there is one.") (internal citations omitted); *Wiginton v. Ellis*, 2003 WL 22439865, at \*3 (N.D. Ill. 2003) ("[Defendant's] backup system is not an archiving system that would preserve all information going into [its] computers. Rather, it is a disaster recovery system that takes only snapshots of [the Defendant's] computer files so that if a catastrophic event occurs, the information from the immediately preceding period can be reloaded.").

<sup>70</sup> See the discussion, above, surrounding footnotes 23 & 24.

<sup>71</sup> See the discussion, above, surrounding footnotes 43 through 45.

using the version of the software, and related infrastructure, that existed as of the time the tape was created.<sup>72</sup> Indeed, restoring backup tapes at NAM is a complex process.<sup>73</sup>

As emphasized above, the Plaintiffs' demands for ESI on NAM's backup tapes entails staggering effort. It also entails huge financial cost. To comply with Plaintiffs' demands would require the expenditure of approximately \$13.6 million.<sup>74</sup> This \$13.6 million figure is based on "forensically sound" data processing methods, and a close analysis of NAM's backup structures.<sup>75</sup> The figure represents the costs -- to a reasonable degree of certainty and in accordance with standard practices in the electronic data industry -- to restore and search (a) NAM's year-end full-system backup tapes, and (b) NAM's daily email backup tapes, in order to locate and produce potentially responsive documents as requested by the Plaintiffs.<sup>76</sup>

Before filing the instant Motion to Compel, the Plaintiffs knew of the extreme burden, and \$13.6 million cost their demands presented<sup>77</sup> and, having taken the deposition of McBean, they knew (or should have known) of the extreme technical burdens their demands posed. Yet in their Motion, the Plaintiffs (a) present no forensic or other evidence to challenge Davis' industry-standard calculation of \$13.6 million in compliance costs,<sup>78</sup> and (b) make no offer to assume all

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<sup>72</sup> See the discussion, above, surrounding footnote 28.

<sup>73</sup> See the discussion, above, surrounding footnote 27.

<sup>74</sup> See the discussion, above, surrounding footnote 49.

<sup>75</sup> Davis Decl., ¶¶25, 33, 45.

<sup>76</sup> The Plaintiffs request restoration and searching of both (a) the daily email backups and (b) the year-end backups. Motion to Compel at 1 (demands "daily e-mail backup tapes and year-end backup tapes"); at 6 (same).

<sup>77</sup> See the discussion, above, surrounding footnote 53.

<sup>78</sup> The Plaintiffs claim -- without support -- that restoring the multitude of backup tapes at issue will pose little burden. Motion to Compel at 3 ("*It is possible for these backup tapes to be restored and searched for relevant documents.*"); *id.* at 5 ("*While the process of retrieving data from the backup tapes is somewhat more complicated than simply searching a server, in this case it is a necessary step considering the importance of these e-mails and electronic documents in resolving the issues.*"); *id.* at 6 ("*While there is some burden involved in searching these tapes, it is the only way to recover the e-mails and other electronic documents that are critical to resolving the issues in this case.*") (emphasis added). These assertions have no factual or expert support, and must be disregarded.

or a portion of these costs.<sup>79</sup> In fact, in a questionable act of misdirection Plaintiffs argue to this Court that such a search will not be burdensome on NAM, knowing full well that their Motion comes with a \$13 million price tag. In short, the Plaintiffs make no credible argument to rebut NAM's case concerning accessibility, or to alleviate the extreme burdens their demands entail. As discussed below, Plaintiffs offer no valid reason, indeed any reason, for engaging in this \$13 million ESI discovery project in the context of this litigation.

### **III. No "Good Cause" Exists To Support The Plaintiffs' Requests.**

The Plaintiffs can show no "good cause" to warrant an order compelling discovery of the requested ESI. Fed. R. Civ. P. 26(b)(2)(B). Given the requested ESI's inaccessibility, the burden of proving the existence of "good cause" lies solely on the Plaintiffs. *Id.* In determining "good cause," courts evaluate a range of factors, including (i) the specificity of the discovery request; (ii) the importance of the proposed discovery in resolving the issues, (iii) whether the request is unreasonably cumulative or duplicative; (iv) whether the party seeking discovery has had ample opportunity by discovery to obtain the information sought; (v) the amount in controversy; and (vi) whether the burden or expense of the proposed discovery outweighs its likely benefit. *See* Fed. R. Civ. P. 26(b)(2)(C)(i)-(iii); Fed. R. Civ. P. 26(b)(2)(B) Advisory Committee Note of 2006, Subdivision (b)(2).

As demonstrated below, the Plaintiffs (i) ignore the full ESI and paper production they have already received; (ii) decline to identify how this full production is deficient in any manner; and (iii) advance no justification for the dramatic burden they seek to impose on NAM, in light of the meritless nature of their claims. In short, no "good cause" exists.

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<sup>79</sup> Given the wholesale "fishing expedition" and "ESI-discovery-as-leverage" nature of this Motion, this Court should deny the Motion outright, and not consider any cost allocation between the parties.

**A. The Plaintiffs' Requests Are Not "Narrowly Tailored," And They Make No Attempt To Specify The Relevance Or Importance Of These Requests To The Case.**

To establish "good cause," a party *must* show that its discovery requests are "*narrowly tailored* to seek *only* information relevant" to the disputed point at issue. *Ameriwood Indus., Inc. v. Liberman*, 2007 WL 496716, at \*1 (E.D. Mo. 2007); *see* B.J. Rothstein, R. J. Hedges, and E. C. Wiggins, *Managing Discovery of Electronic Information: A Pocket Guide for Judges* at 9 (Federal Judicial Center 2007) (the party requesting not-reasonably-accessible ESI must make a specific and tailored discovery request). In *Ameriwood*, for example, the Court ruled that the requesting party failed to meet the "good cause" threshold with a discovery request for "all plaintiff's documents and communications concerning [its] business" over a *five month period*. 2007 WL 496716 at \*1. Here, as just a single example, the Plaintiffs seek "all documents" concerning the "loyalty marketing industry" from 1997 to the present.<sup>80</sup>

In addition to requiring narrowly tailored ESI requests, courts also require that a party specifically demonstrate the relevance of the requested information. *See Balfour Beatty Rail, Inc. v. Vaccarello*, 2007 WL 169628, at \*2 (M.D. Fla. 2007). In *Balfour Beatty Rail*, for example, the plaintiff sought to obtain copies of the defendant's computer hard drives, but did not specify why this access was necessary. In denying the plaintiff's motion, the *Balfour Beatty Rail* Court reasoned that:

*Plaintiff does not provide any information regarding what it seeks to discover from the hard drives nor does it make any contention that Defendants have failed to provide requested information contained on these hard drives ... [A]llowing Plaintiff to gain access to Defendants' hard drives in this case would permit Plaintiff to engage in a fishing expedition.*

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<sup>80</sup> See the discussion, above, surrounding footnotes 12 & 13.

*Id.* at \*2 (emphasis added). As in *Balfour Beatty Rail*, the Plaintiffs here fail to show what relevance -- if any-- the requested additional discovery presents. Seen for what it is, the request to search all NAM backup tapes is a \$13 million global fishing expedition in pursuit of nothing in particular. *Accord Hedenburg v. Aramark Am. Food Servs.*, 2007 WL 162716, at \*2 (W.D. Wash. 2007) (denying motion to compel plaintiff to produce a "mirror image" of its hard drive) ("Here, the central claims in the case are wholly unrelated to the contents of plaintiff's computer. Defendant is hoping blindly to find something useful in its impeachment of the plaintiff ... Defendant essentially seeks a search warrant to confirm that Plaintiff has not memorialized statements contrary to her testimony in this case. If the issue related instead to a lost paper diary, the court would not permit the Defendant to search the plaintiff's property to ensure that her search was complete.")

#### **B. The Plaintiffs Have Enjoyed Ample Discovery.**

Courts deny requests for not-reasonably-accessible ESI where the party seeking the discovery has had "ample opportunity by discovery ... to obtain the information sought." Fed. R. Civ. P. 26(b)(2)(C)(ii). *See, e.g., Cognex Corp. v. Elec. Scientific Indus., Inc.*, 2002 WL 32309413 (D. Mass. 2002). Here, NAM has provided the Plaintiffs with substantial, full, and robust discovery.<sup>81</sup> When the Plaintiffs complained about purported "gaps" in the production, NAM responded either (a) by pointing out where the claimed missing information in fact was located in the production (and making previously produced documents – that the Plaintiffs had

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<sup>81</sup> The plaintiffs appear to claim that they are justified in seeking ESI from backup tapes because McBean did not disclose the structure for backing up email. This is incorrect. First, McBean testified that the email system was backed up. Ex. 1, McBean Depo. at 42:3-43:9 ("Q. And the *E-mail itself, the Outlook E-mail itself*, that's not backed up? A. *That is backed up*. Well, Exchange is a server. So *the Exchange server is backed up*. Q. Okay. A. But Outlook is not backed up. Q. So E-mail itself, the communications are saved for some period of time? A. *Mail that flows through the Exchange servers are backed up*." (emphasis added). Second, despite Plaintiffs' Counsel's decision to refrain from further questions as to this backup structure (or failure to ask further questions), Defendant's counsel subsequently affirmatively and voluntarily educated Plaintiffs' counsel concerning the email backup structure, in an effort to avoid the present Motion to Compel. *See* Katz Decl., ¶14.

not copied on their first review-- again available for inspection and copying), or (b) by searching for, locating, and producing additional materials.<sup>82</sup> Indeed, the Plaintiffs do not in their Motion identify – in any way – information they claim is missing from NAM's discovery responses.<sup>83</sup> The Plaintiffs, therefore, have had ample opportunity to obtain – and have fully obtained – the information sought.<sup>84</sup>

**C. The Plaintiffs Do Not Show How The Requested ESI Discovery Differs In Any Material Respect From The Full Discovery NAM Has Already Provided.**

The Plaintiffs, moreover, do not specify in their Motion how, or if, the requested ESI will differ in any material respect from the information they have already obtained. Fed. R. Civ. P. 26(b)(2)(C)(i) (required "good cause" is not shown where the ESI discovery "is unreasonably cumulative or duplicative"). Indeed, the Plaintiffs' position is highly analogous to the plaintiff's unsuccessful position in *Cognex Corp. v. Electro Scientific Indus., Inc.* 2002 WL 32309413 (D. Mass. 2002).

In *Cognex Corp.*, the plaintiff moved to compel the production of ESI that was stored on 820 back-up tapes created by the defendant. 2002 WL 32309413, at \*1. The defendant estimated that these tapes contained "almost three billion pages of documents." *Id.* Recognizing that "the cost of the search sought by [plaintiff] would likely be astronomical," the Court declined to order the production that was sought, even though the plaintiff had offered to assume any cost of production. *Id.* at \*3, 6. In analyzing the Rule 26(b)(2)(C) factors, the *Cognex* court recognized "that a search of back-up tapes would uncover documents not already produced." *Id.* at \*4. The Court reasoned, however, that such a search was still not appropriate because the

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<sup>82</sup> See the discussion, above, surrounding footnotes 13 through 16.

<sup>83</sup> See the discussion, above, surrounding footnote 55.

<sup>84</sup> The Plaintiffs, it appears, have spent little time or effort in reviewing this production. See the discussion, above, surrounding footnotes 33 through 35.

defendant had "*already conducted an extensive search for relevant documents*," the record did not reflect the conscious destruction of documents, and the case was not one in which one would expect the most relevant emails to be deleted around the time they were written. *Id.* at \*5. The Court accordingly denied the motion, emphasizing that:

At some point, the adversary system needs to say '*enough is enough*' and recognize that the costs of seeking *every* relevant piece of discovery is not reasonable.

*Id.* (emphasis added). Like the defendant in *Cognex*, NAM has "already conducted an extensive search for relevant documents," has produced these relevant documents, and has twice supplemented its production in part in response to exchanges with Plaintiffs' counsel. As found by the *Cognex* Court, "enough is enough."

**D. NAM Has Produced Extensive, Responsive ESI From Online And Archived Sources, And The Plaintiffs' Claims That NAM's Backup Tapes Offer The "Only Source" For Responsive ESI Are Flatly Incorrect.**

The Plaintiffs seek to meet their "good cause" burden -- not by identifying components allegedly missing from the production, and demonstrating the relevance and materiality of these components -- but by claiming that backup tapes are the "only source" for the (unidentified) documents they seek.<sup>85</sup> This claim is patently false.

McBean testified that users retain documents and email on their desktops and on NAM's servers, and that these materials are *not* on backup tapes alone.<sup>86</sup> Lellouche -- the Plaintiffs' primary supervisor -- testified that as a rule he retained *all important documents* in digital form on his desktop and network drives, that he thoroughly searched his desktop and network drives for responsive information, and that he produced this information to the Plaintiffs. Moreover, Lellouche testified that, under his supervision, NAM's IT Department searched others' online and

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<sup>85</sup> See the discussion, above, surrounding footnote 56.

<sup>86</sup> See the discussion, above, surrounding footnotes 31 & 32.

archived accounts, and produced responsive electronically stored information from these sources as well.<sup>87</sup> Finally, a review of the substance of NAMs' production -- in light of what appear to be the Plaintiffs' assertions -- demonstrates that the production responds in full, on all points.<sup>88</sup>

Indeed, even the Plaintiffs appear to acknowledge the inaccuracy of their claims that backup tapes provide the "only source" for the requested information.<sup>89</sup> In sum, the tapes are not the only source for the requested information, and NAM has already produced all requested, discoverable information.

**E. There Is No Basis -- As A Matter Of Law -- To The Plaintiffs' Claims That ESI Discovery Will "Likely" Generate Relevant Documents.**

Knowing they cannot win this lawsuit on the merits in light of the unambiguous, express contractual rights they freely granted to NAM in the Stock Purchase Agreement -- forgive the repetition, but there is no room for Plaintiffs' "implicit" obligations where they contradict NAM's express right of "sole and unfettered judgment" -- Plaintiffs seek to use the instant motion to extort a settlement out of NAM. Without any showing of deficiencies in NAM's production, and without any analysis of whether the requested ESI will produce non-cumulative information, the Plaintiffs seek settlement leverage in this litigation by trying to force NAM to restore and review extensive backup tapes, based on a claim that relevant information will "likely" be found.<sup>90</sup> In essence, Plaintiffs hope to force NAM to choose between either incurring \$13 million in

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<sup>87</sup> See the discussion, above, surrounding footnotes 17 through 22.

<sup>88</sup> See the discussion, above, surrounding footnotes 59 through 68.

<sup>89</sup> Motion to Compel at 5 ("*O*utside of e-mail files that may exist on end user's computers, the only source for the e-mails from the relevant time period is on the daily e-mail backup tapes and year-end backup tapes") (emphasis added).

<sup>90</sup> Motion to Compel at 5 ("The *likelihood* that these daily e-mail backups and year-end backup tapes contain information relevant to the claims in this case is high."); *id.* at 6 ("data that *in all likelihood* contain key electronic documents that go to the core of this case has yet to be searched.") (emphasis added).



unnecessary discovery costs or paying them millions of dollars to settle. Courts recognize this tactic, and reject it for what it is. In *McPeck v. Ashcroft*, for example, the Court reasoned that:

[E]conomic considerations have to be pertinent if the court is to remain faithful to its responsibility to *prevent 'undue burden or expense' ... If the likelihood of finding something was the only criterion*, there is a risk that someone will have to spend hundreds of thousands of dollars to produce a single e-mail. That is an awfully expensive needle to justify searching a haystack. It must be recalled that ordering the producing party to restore backup tapes upon a *showing of likelihood* that they will contain relevant information in every case gives the plaintiff a gigantic club with which to beat his opponent into settlement. *No corporate president in her right mind would fail to settle a lawsuit for \$100,000 if the restoration of backup tapes would cost \$300,000. While that scenario might warm the cockles of certain lawyers' hearts, no one would accuse it of being just.*

202 F.R.D. 31, 34-35 (D.D.C. 2001) (emphasis added.) The *McPeck* analysis is resonant here.

The instant Motion is an extortionate attempt to force NAM to settle a claim, that is, as discussed below, entirely without merit and should never have been brought.

#### **IV. The Plaintiffs' Claims Have No Substantive Merit, And This Fact Alone Requires Denial Of The Present Motion.**

An evaluation of the substance of the Plaintiffs' claims further demonstrates that Plaintiffs' Motion to Compel must be denied. Fed. R. Civ. P. 26(b)(2)(C)(iii) (in assessing "good cause," courts evaluate whether the burden or expense of the proposed discovery outweighs its likely benefit).

##### **A. The Stock Agreement Bars The Plaintiffs' Claims.**

The Plaintiffs in this action seek to second-guess NAM's business judgment in running their former company. However, the Stock Purchase Agreement, section 6.8, affirmatively prevents such a claim. This section provides (i) that NAM "*shall be free to operate the Company and its Affiliates in its sole and unfettered judgment*" and (ii) that the Plaintiffs "*shall have no*

*claim*" against NAM for the exercise of this sole and unfettered judgment.<sup>91</sup> This language precludes the Plaintiffs' claims.

Moreover, even in the absence of such unequivocal language, NAM's business judgment would be immune from attack by the Plaintiffs. Both NAM and Plaintiffs had an economic incentive to maximize the acquired company's (CCMI's) profits. With those economic interests aligned, as a matter of black-letter New York law,<sup>92</sup> the Plaintiffs have no right to challenge NAM's unfettered judgment. *See, e.g., The Interpublic Group of Companies, Inc. v.*

*Fratarcangelo*, 2002 WL 31682389, at \*14-15 (S.D.N.Y. 2002) (only where interests of party holding discretion differ from those of the contractual venture will a court scrutinize the motivation behind an exercise of business judgment because "[s]elf-interest ensures that the goal of profit maximization for the venture, not bad faith, guides that party's decisions."). *See also Travellers Intern., A.G. v. Trans World Airlines, Inc.*, 41 F.3d 1570, 1577 (2d Cir. 1994) (holding that where a "promoter stands to share in the profits of the joint venture" it is appropriate for a court to "rely on the promoter's self-interest to ensure that the goal of profit maximization guides its business decisions.").<sup>93</sup>

There is no ESI in backup tapes or elsewhere that will overcome this fatal flaw in the Plaintiffs' claims.

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<sup>91</sup> Ex. 2, Stock Purchase Agreement, §6.8 (emphasis added).

<sup>92</sup> The Stock Purchase Agreement stipulates New York law as governing its interpretation. Ex. 2, § 8.2.

<sup>93</sup> The cases cited by Plaintiffs to support the "substantive" merits of their claims -- *Speakman v. Allmerica Financial Life Insurance* and *In re Gulf Oil/Cities Service Tender Offer Litigation* -- in fact support NAM's position, as these cases hold that parties *possess the power* affirmatively to contract away obligations set by the implied covenant of good faith and fair dealing. For example, the *Gulf Oil* case explicitly states that a contractual provision "*may obliterate implied good faith* because of the clause's language or because of the nature of the power." 725 F. Supp. 712, 736 (S.D.N.Y. 1989) (holding that "the trick is to tell *when* a contract has been so drawn ...") (internal citations omitted) (emphasis added). Likewise, the *Speakman* case makes it clear that "[t]he requirement of good faith performance is, however, circumscribed by obligations in the contract ... Thus, *the covenant may not be invoked to create rights and duties not contemplated by provisions of the contract or the contractual relationship.*" 367 F. Supp. 2d 122, 132 (D. Mass. 2005) (emphasis added).

**B. The Plaintiffs Failed to Follow the Agreement's Mandatory Objection Procedures.**

Plaintiffs' claims must also fail for another reason. Section 2.2(b) and 2.3(c) of the Agreement contain detailed and mandatory dispute resolution procedures that Plaintiffs did not follow in this case. Indeed, the earn-out calculations Plaintiffs are disputing here have long since become immune to challenge. Pursuant to the Agreement, Plaintiffs could only have challenged these calculations if, in addition to objecting in writing within twenty days of receiving NAM's calculation, they submitted the dispute to accountant arbitration for resolution if the objections were not resolved by discussions between the parties. Plaintiffs admit that they never exercised the accountant arbitration procedure for any of the five separate earn out years.<sup>94</sup> Accordingly, Plaintiffs are now precluded from revisiting the propriety of these calculations through the instant litigation. *See Excel Group, Inc. v. New York Transit Auth.*, 814 N.Y.S.2d 220, 222-223 (N.Y. App. Div. 2d Dep't April 25, 2006) (barring contractor from pursuing breach of contract claim, where it failed to follow dispute resolution period provided by parties contract); *153 Hudson Dev., LLC v. DiNunno*, 778 N.Y.S.2d 482, 482 (N.Y. App. Div. 1st Dep't 2004) (barring plaintiff from seeking recovery against defendant where plaintiff failed to invoke the claim resolution provision of its contract with defendant). Nothing contained in NAM's backup tapes could excuse Plaintiffs' failure to follow these mandatory procedures.

**C. The Plaintiffs Accepted NAM's Earn-Out Payments, And Are Now Barred From Challenging These Payments.**

Plaintiffs are estopped from disputing the amount of the earn-out payments. By accepting and enjoying the fruits of 5 years of earn-out payments, Plaintiffs acquiesced in, or ratified, the amount that had been paid by NAM. *See Savasta v. 470 Newport Assoc.*, 579

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<sup>94</sup> Ex. 4, Fireman Depo. at 181:17-183:23.

N.Y.S.2d 167, 169 (N.Y. App. Div. 2d Dep't 1992), *aff'd* 82 N.Y.2d 763 (1993) ("Estoppel will lie when an individual has accepted the benefits of an agreement ..."); *Banque Nationale de Paris v. 1567 Broadway Ownership Assocs.*, 625 N.Y.S.2d 152, 154 (N.Y. App. Div. 1st Dep't 1995) (party ratified mortgage modification by enjoying financial benefits of modification for two years before repudiation); *Reda v. Love Taxi, Inc.*, 608 N.Y.S.2d 656, 658 (N.Y. App. Div. 1st Dep't 1994) (taxi drivers estopped from objecting to deductions taken from vouchers where they accepted fruits of vouchers with full knowledge of the deductions). The Plaintiffs ratified NAM's actions by accepting NAM's earn-out payments.

ESI on backup tapes cannot alter this fact.

**D. The Plaintiffs Have Not and Cannot Establish any Damages.**

The Plaintiffs' damages are zero.

Although they apparently claim damages of \$15 million,<sup>95</sup> Plaintiffs have provided no explanation, support, or calculations for this figure,<sup>96</sup> and have not designated an expert to testify as to damages or any underlying theories.<sup>97</sup> The Scheduling Order required the Plaintiffs to

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<sup>95</sup> Ex 16, Robert Fireman and Ann Raider's Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1), dated June 1, 2006 at 12 ("At this time, Mr. Fireman and Ms. Raider are unable to quantify their damages suffered as a result of News America Marketing In-Store, Inc.'s misconduct. Further responding, News America Marketing's own records demonstrate that Ms. Raider and Mr. Fireman are owed in excess of \$15,000,000."). The plaintiffs did not provide the required *damages computation* in this disclosure and have not amended this initial disclosure on damages to provide any additional information regarding how they believe their damages ought to be calculated. Moreover, NAM has requested that a formal damages computation be submitted, but none has been offered to date.

<sup>96</sup> See Ex. 15, Fireman Answers to Ints., Int. No. 20 ("[d]escribe in detail any an all damages you seek in this lawsuit."). In responding, the Plaintiffs provide no detail to their damages claim. See Ex. 15 Fireman Answers to Ints., Int. No. 20 ("CCMI had established itself as the industry leader in an emerging marketplace. If NAM had proceeded in good faith, the Plaintiff would have achieved each and every threshold necessary to achieve the maximum amount possible under the earnout formula. The NAM projection developed to determine the earn out percentages was presented by NAM's CFO as a conservative *guestimate* of revenue that would be paid to Plaintiffs. This projection was over Fifteen Million (15m) dollars. Plaintiffs' damages also include an additional payment (up to a cap) on revenues above a certain point.") (emphasis added); see Raider Answers to Ints., Int. No. 20 (same), Exh. 17.

<sup>97</sup> See Ex. 15, Fireman and Raider, Int. No. 1 (requesting that Plaintiffs identify each expert witness they intend to call at trial). The Plaintiffs responded by stating that they had not yet determined which, if any, experts they intended to call.

designate their experts, and provide all requisite expert disclosures, by March 30, 2007. No such designation was made; the Plaintiffs, therefore, are precluded from offering expert testimony.

Without expert testimony, any damages case dissolves. The Plaintiffs apparently would seek to show that, had NAM had acted differently, CCMI would have "achieved each and every threshold necessary to achieve the maximum amount possible under the earnout formula."<sup>98</sup> Presumably, these claims at a minimum would require (a) a reconstruction of the loyalty card industry, and related markets during 1999 to 2004; (b) an evaluation of the impact of the "dotcom bubble" and its "bursting" and 9-11 on these industries; (c) testimony concerning the alternative steps that NAM "should" have taken, instead of the strategy it in fact followed; and (d) testimony concerning the financial impact that these different steps would have had on CCMI's financial performance, in light of the relevant 1999-2004 markets. The Plaintiffs' damages claims, therefore, would require "sophisticated" and extensive *expert* testimony concerning market reconstruction (during a significant downturn); at least five years of "what if" projections for CCMI revenues and expenses, and a wide range of detailed, micro- and macro-economic assumptions and industry analysis. The Plaintiffs are now barred from making any such showing (were such showing possible).

Indeed, it is doubtful that Plaintiff could have proved damages even *with* an expert. To be admissible, any damages showing by the Plaintiffs *must* be "capable of measurement based upon *known reliable factors* without undue speculation." *Kidder, Peabody & Co. Inc. v. IAG Int'l Acceptance Group N.V.*, 28 F. Supp. 2d 126, 131 (S.D.N.Y. 1998), *aff'd* 205 F.3d 1323 (2d Cir. 1999) (plaintiff's failure to prove damages to a reasonable certainty precluded recovery) (emphasis added); *Zink v. Mark Goodson Prods., Inc.*, 689 N.Y.S.2d 87, 88 (N.Y. App. Div. 1st

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<sup>98</sup> Ex. 15 Fireman Answers to Ints., Int. No. 20.

Dep't 1999) (damages claim based on assumptions, speculation and conjecture properly dismissed); *Mehta v. New York City Dep't of Consumer Affairs*, 556 N.Y.S.2d 601, 602 (N.Y. App. Div. 1st Dep't 1990) (evidence of lost profits was too speculative to support a damages award). Without expert testimony, the Plaintiffs cannot even begin to meet this burden.<sup>99</sup>

Moreover, it is black-letter law that a plaintiff's own general conclusions, estimates, and opinions as to damages are *not* competent evidence, and cannot sustain a damage award. *See Clarke v. Bank of New York*, 687 F. Supp. 863, 871 (S.D.N.Y. 1988) (where plaintiff was not an expert on the valuation of stocks and bonds, his opinion as to damages he suffered was not binding on the court); *Alexander's Dep't Stores, Inc. v. Ohrbach's Inc.*, 56 N.Y.S.2d 173, 183-184 (N.Y. App. Div., 1st Dep't 1945); *Philman v. Connery*, 111 N.Y.S. 654, 654 (App. Term. 1908) (party's conclusion or general estimate as to damages was not competent evidence and should not have been permitted). In *Alexander's Dep't Stores, Inc.*, for example, the only evidence to sustain a particular damages claim was the opinion of the plaintiff's president. *See Alexander's Dep't Stores, Inc.*, 56 N.Y.S.2d at 184. The court found that there was "no sufficient basis of facts proved or assumed in [the] record to support the opinion of the interested witness as to the amount of damage sustained." *Id.*<sup>100</sup>

In sum, Plaintiffs have no expert, and the Plaintiffs cannot rely on their own testimony to establish damages.

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<sup>99</sup> *See also Lowrie v. Castle*, 225 Mass. 37, 51 (Mass. 1916) ("[D]amages cannot be recovered when they are remote, speculative, hypothetical, and not within the realm of reasonable certainty") (lost profit damages could not be awarded where such damages would be uncertain or conjectural); *Pierce v. Clark*, 66 Mass. App. Ct. 912, 914, (2006) (affirming denial of damages where plaintiff's suggested amount of damages was "purely speculative and not proven to a reasonable certainty by sufficient or substantial evidence"); *Connolly v. Suffolk County Sheriff's Dep't*, 62 Mass. App. Ct. 187, 198-199 (2004) (affirming denial of compensatory damage award where such damages would be speculative).

<sup>100</sup> *Williamson v. Feinstein*, 311 Mass. 322, 324 (Mass. 1942) (finding that "[t]he estimate of the witness was hardly more than his opinion as to the amount of his loss...A plaintiff should not be permitted to fix his own damages. There was error in the admission of this evidence"); *Giuliano v. Vacca*, 2004 Mass. App. Div. 154 (Mass. App. Div. 2004) (damage award could not stand "because it was based on virtually no foundational evidence" where the only measure of damages was the plaintiff's opinion).

### **Conclusion**

The Plaintiffs ask this Court to order NAM to comply with expansive, untailored discovery requests; to search ESI stored on daily and year-end backup tapes; and to incur resulting costs of over \$13 million. The Plaintiffs, however, fail to identify how NAM's existing production is deficient in any respect. More fundamentally, the Plaintiffs provide no legitimate justification for imposing a \$13 million expense on NAM in light of their actual case: a case asserting earn-out claims that are contractually barred, and allegations of damages unsupported by any competent evidence. When the Court weighs all of the factors set forth in Rule 26, there is not the slightest justification for ordering NAM to incur a \$13 million expense to restore and search 5 years of, and more than 5000 actual, backup tapes.

For the above reasons, NAM respectfully requests that this Court deny the Plaintiffs' Motion to Compel.<sup>101</sup>

### **Request for Hearing**

The Defendant requests a hearing on the present Motion. As grounds, the Defendant states that it believes a hearing will be of assistance to the Court.

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<sup>101</sup> NAM also respectfully suggests that, under Fed. R. Civ. P. 37(a)(4)(B), it should be awarded the reasonable expenses, including attorney's fees, it has incurred in opposing Plaintiffs' Motion to Compel.

NEWS AMERICA MARKETING IN-STORE,  
INC.

By its attorneys,

/s/ Gordon P. Katz

Gordon P. Katz (BBO# 261080)

Ieuan G. Mahony (BBO# 552349)

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HOLLAND & KNIGHT LLP

10 St. James Avenue

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(617) 523-2700

Dated: June 4, 2007

Boston, Massachusetts

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this 4<sup>th</sup> day of June, 2007.

/s/ Gordon P. Katz

Gordon P. Katz

# 4566725\_v8



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

ROBERT FIREMAN and ANN RAIDER,

Plaintiffs,

v.

Civil Action No. 05-11740-MLW

NEWS AMERICA MARKETING IN-STORE,  
INC.,

Defendant.

**DEFENDANT'S EXHIBITS IN SUPPORT OF  
OPPOSITION TO PLAINTIFFS' MOTION TO COMPEL**

NEWS AMERICA MARKETING IN-STORE,  
INC.

By its attorneys,

Gordon P. Katz (BBO# 261080)  
Ieuan G. Mahony (BBO# 552349)  
Ben McGovern (BBO# 661611)  
HOLLAND & KNIGHT LLP  
10 St. James Avenue  
Boston, MA 02116  
(617) 523-2700

Dated: June 4, 2007  
Boston, Massachusetts

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this 4<sup>th</sup> day of June, 2007.

/s/ Gordon P. Katz  
Gordon P. Katz

<b>Exhibit No.</b>	<b>Description</b>
1	NAM Due Diligence Memo, May 27, 1999, NAM Bates Pages 3157-3159
2	Stock Purchase Agreement, dated August 13, 1999, between NAM and the Plaintiffs (among others)
3	Tabulation of Earn-Out Payments made by NAM to the Plaintiffs
4	Fireman Deposition Excerpt at 181:17 – 183:23
5	Plaintiffs' First Set of Requests for Production of Documents and Things
6	Defendant's Responses to Requests for Production
7	Deposition Transcript of A. McBean
8	Letter dated 10/30/06 from Rich to Katz
9	Letter dated 12/12/06 from Katz to Rich
10	Letter dated 1/5/07 from Rich to Katz
11	Letter dated 1/26/07 from Katz to Rich
12	Listing of Internal Email
13	List of Names from Email
14	List of Meeting Minutes
15	Robert Fireman's Answers to First Set of Interrogatories Propounded by the Defendant
16	Robert Fireman and Ann Raider's Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1), dated June 1, 2006
17	Email dated 5/25/2007 from Katz to Peters and Rich, attaching <i>Cognex</i> case
18	File Index: Binders Produced
19	Index of Files from Fireman and Raider Working Files and Related Materials
20	Letter dated 10/26/2006 from Hulme to Rich
21	Letter dated 2/9/07 from Hulme to Rich
22	Letter dated 4/17/07 from Hulme to Rich
23	Copies of Binder Labels of Binders made available for review
24	Cost Estimate for Year-End Full-System Tapes for the Complete Period
25	Cost Estimate for Daily Exchange Tapes for the Complete Period
26	Cost Estimate for Year-End Full-System Tapes for the Sampling Period

# **EXHIBIT 1**

## News America Marketing

**To:** Dave DeVoe  
**cc:** Heather Harde  
**From:** Julie Openshaw  
**Date:** 05/27/99  
**Re:** CCMI Due Diligence

**REDACTED**

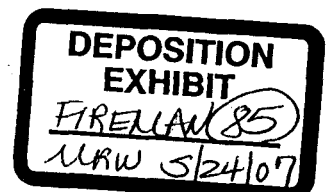
Joe Schena, Jon Rubin and I visited the offices of CCMI in Braintree, MA on May 24-25. I conducted a general business and contractual due diligence. Below is a summary of my general business findings.

### 1. Loyalty Card Implementation

- CCMI does not draft contracts for card implementations, but works directly from proposals.
- **New implementations generate most revenue** - During 1998 CCMI implemented 7 new loyalty card programs and serviced 13 others with additional card production or data entry. Revenue from new card programs was \$1.6million, or 65% of total implementation revenue of \$2.4 million. \$1.1 million of this was from 2 retail clients, Fry's with \$672K and Jitney Jungle with \$434K.
- **Most revenue generated from one or two clients** - In Q1 99, CCMI has completed 1 new implementation for Wegmans, which generated \$383K or 67% of the total \$574K revenue for the quarter.

### 2. Database Management Contracts

- CCMI has 7 active contracts with retail chains for database management services. Of these contracts, 2 are serviced in house at CCMI and the remainder are located at the retailers' sites and license the software from CCMI. Contracts do not clearly differentiate between in house and out of house clients. (Note that the financial model assumes a 50:50 split between in house and in store systems.)
  - All agreements, with the exception of Star Market, include the Customer Information System (CIS) and the Marketing Analysis System (MAS). The CIS is a software system that manages a database of cardholder names, addresses and demographic information. The MAS is an open-architecture software system designed to assist retail executives in the analysis and communication to their customers based on purchase data. Star Market is using the CIS only.
  - In 1998, database management generated \$1.2 million in revenues. CCMI earned almost 70% of its database management revenue from 3 clients. The Company earned \$350K from Bruno's, a retailer that has subsequently gone bankrupt, \$263K from Nash Finch, a grocery wholesaler and ongoing client, and \$230K from Nature's Fresh, an ongoing retail client.
  - CCMI did not implement any new database management programs during Q1 99 and revenue for the period was \$140K. This revenue was generated from maintenance fees for the 7 active clients.
  - CCMI is attempting to lengthen contract terms, as evidenced by the two most recent deals, Nash Finch (7/98), and Blue Square (11/98), an Israeli supermarket chain, for 3 years with automatic 1 year renewals.
- See attachment for further details.



### 3. Consulting

- CCMI currently generates its consulting revenues from Ann Raider offering loyalty marketing advice to clients for one or two day periods. Other revenue in 98 was for national change of address services, where CCMI checks name and address lists against a US Postal Service database. The total revenue of \$72K for 98 was not significant and did not have signed agreements. CCMI could probably charge more for these small consulting projects.
- During Q1 \$40K of the total \$52K of consulting revenue was from a movie ticket enhancement program for Jitney Jungle. This deal did not have a signed proposal, but was supported by invoices. See attached schedule for details.

### 4. Leases and Licenses

- **Fleet National Bank Lease of Computer Equipment** – CCMI has a 3-year lease for computer equipment from Fleet Bank effective 2/99. CCMI has insured this equipment through the Connecticut Indemnity Company for \$27K.
- **AT&T Computer Lease** – CCMI has a 3 year lease effective 10/97. This equipment is covered under general insurance for office equipment of \$60K through Public Service Mutual Insurance Company.
- **Car Financing** – CCMI purchased a car in 11/97 and financed \$16K.
- **Note payable** – CCMI borrowed \$85K from Fleet Bank in 9/97, payable over 5 years.
- **Building Lease** – CCMI has a renewable 4 year lease for its office space at 165 Wood Road which expires 12/31/99. The annual rent is \$72K and the lessor is Harry Fireman.
- **Internet service agreement @work** – CCMI has a one year internet service agreement effective through 6/24/99.
- **Arbor Software License** – Effective 7/96, CCMI has a three-year license with one-year renewal options for Essbase, a programming tool around which the CIS and MAS applications are built. CCMI then sublicenses the software to its clients as allowed by the lease terms.

### 5. Third Party Agreements

- **Loyalty Card Production** – CCMI outsources all loyalty card production, but does not have written agreements with any firms. Per review of invoices, one of the most frequently used vendors is Arthur Blank. CCMI selects vendors on an order by order basis.
- **Decision Support Technology (DST)** – CCMI contracted with DST in 11/97 to develop and design software products including the CIS and MAS. Recently, CCMI has stopped using DST (contract allows 10 days notice for termination) as they have been dissatisfied with the Company's performance, and is using Unmanned Balloon instead.
- **Unmanned Balloon (Division of Ockham's Razor, Inc.)** – CCMI uses this Toronto based software programming firm for database management related programming. Bob Fireman has a long-standing relationship with Unmanned Balloon and there is no contract between the firms, rather, CCMI is billed on a monthly basis for work performed.
- **Polk** – CCMI has been using Polk since inception for all data entry services relating to loyalty card implementation. There is no written contract, but Polk bills services regularly on a monthly basis.

### 6. Other Agreements

- **Overlap Consulting** – Overlap is a Spanish promotions firm with which CCMI has an ongoing agreement that Overlap has exclusive rights in Spain and non-exclusive rights in South America to promote CCMI's products and services. Fees will be on a deal by deal basis.
- **National Association of Chain Drug Stores (NACDS)** – CCMI contracted with the NACDS in 1/99 to license NACDS' name and logos as it signs up drug stores to participate in its database.

management program. CCMI must pay 4 % of revenues from the program to the NACDS. Currently CCMI is in the process of signing 4 small chains (300-500 stores) for the program.

7. Litigation

- Patent infringement suit – The Credit Verification Corporation filed a patent infringement suit in 1/96, but they have not taken any action since 8/96.
- Business Software Alliance – In 2/99, CCMI received allegations of using software without proper licenses. The Business Software Alliance has asked CCMI to conduct an audit.
- Disputed recruitment fee – Interpros is suing for collection of a \$38K recruitment fee for a CIO who left CCMI shortly after being hired. Bob Fireman is expecting to settle by mid June.

8. Personnel

- CCMI currently has 16 employees and is planning to hire more.
- CCMI pays employees base salaries with no formal bonus structure. However, in 1997 CCMI paid \$285K in employee bonuses because it had a good year.
- The Board of Directors is Ann Raider, Bob Fireman, and Les Charm. The Board receives no compensation.

9. Equity

- The sole investors, Curtis Smith and John Boyles have invested \$1 million in CCMI.
- Robert Fireman has invested additional paid in capital of \$92K.
- CCMI granted 20,000 stock options to Robert Coughlin and 60,000 to William Adam in 3/97. The options are 50% exercisable after 1 year and fully exercisable after 3 years

See attached schedule for details

**CCM Due Diligence**  
**Loyalty Card Program Implementation**

Client	Status	1998 Revenue			Q1 1999 Revenue	
		Cards	Data Entry	Total	Total	
A&P	New in 1998	\$ 41,700	\$ -	41,700	\$ -	
Brunos	New in 97, now inactive	132,900	39,340	172,240	-	
Carlton Cards	Inactive	-	176,750	176,750	720	
Coborns	Active	-	4,350	4,350	840	
Delchamps	New in 98, now inactive	222,360	-	222,360	-	
City Market		9,320	-	9,320	-	
Fry's	New in 98, active	252,180	420,000	672,180	107,560	
Jinney Jungle	New in 98, active	190,400	244,450	434,850	37,260	
King Sooper	New in 98	57,420	-	57,420	-	
Kroger		22,330	-	22,330	-	
Lucky - Northern	New in 97, now inactive	191,370	32,920	224,290	-	
Lucky - Southern	New in 97, now inactive	29,460	150	29,610	-	
Nash Finch	Active	-	-	-	4,890	
Natures Fresh	New in 98, active	26,140	3,660	29,800	820	
Shaw's	New in 97, active	-	38,160	38,160	6,290	
Smart & Final		3,680	-	3,680	-	
Star Market	New in 95, active	59,210	70,970	130,180	12,430	
Sullivan's	New in 96, active	16,940	-	16,940	-	
Wegmans	New in 99, active	-	-	-	383,450	
Western Foods		9,930	-	9,930	-	
Wild Oats	New in 98, active	62,700	51,070	113,770	19,740	
Misc.		-	-	12,906	-	
Total		1,328,040	1,081,820	2,422,766	574,000	

5/27/99 10:47 AM

1 of 4

NAM03157



CCMI Due Diligence  
Database Management

## Active Clients

Retail Client	Agreement Date	Network Size	Location	Services	Placement	Agreement Length	Revenue	
							1998	Q1 1999
Star Market	Nov-95	52 stores	Massachusetts	CIS, cards	At store	3 years renewable	\$ 30,760	\$ 6,520
Sullivan Foods	1996	11 stores	Illinois	CIS, MAS	At store	1 year	8,330	-
Ceburns	Oct-97	21 stores	Minnesota, North Dakota and Iowa	CIS, MAS	In house	1 year renewable	72,890	13,860
Wild Oats	Nov-97	50 stores	Colorado	CIS, MAS	In house	1 year renewable	159,770	44,910
Nature's Fresh	Jun-98	7 stores	Pacific NW	CIS, MAS, cards	At Store	1 year	230,000	-
Nash Finch (Grocery Wholesale)	Jul-98	services 3,000 stores operates 97 stores	National	CIS, MAS	At Store	3 years, automatic renewals	262,500	20,000
Blue Square	Nov-98	150 stores	Israel	CIS, MAS	At Store	3 years, automatic renewals	-	55,000

## Inactive Clients

Brunos  
Carlton Cards  
Lucky Stores Southern Division  
ABT Assoc.  
Misc.

\$ 763,450 \$ 140,390

354,190

8,690

60,210

51,520

8,058

Total Revenue

\$1,247,118

CCMI Due Diligence  
Consulting Services

Client	Description of Service	Revenue	
		1998	1999
Jitney Jungle	Movie ticket enhancement program		\$ 38,920
Natures Fresh	Consulting on system startup	24,000	8,000
Publix	National Change of Address	11,820	
Star Market	National Change of Address	7,400	
Wild Oats	Ann's time	5,000	
Meijers	Ann's time	4,500	
Longo's	Ann and Jerry Clapp's time	4,000	
Remke	Ann's time assisting with loyalty strategy	2,750	5,110
Kellogg's	Ann's time	2,500	
Mettler-Toledo	Ann's time	2,500	
NRI	Ann's time	2,500	
Misc.		4,978	
Total Revenue		\$ 71,948	\$ 52,030

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3 of 4

NAM03159

## Stockholders of Consumer Card Marketing, Inc. (12/31/98)

Name	Common Stock	Preferred Stock
Robert Fireman	4,200,000	
Ann Raider	2,800,000	
Curtis R. Smith	456,858	248,000
John H. Boyles	167,142	62,000
Total	7,624,000	310,000

## Schedule of Investment

	Shares		Total Investment
	Common	Preferred	
Dec-97 CCMI borrowed \$500,000 from Curtis Smith and John Boyles			
Feb-98 10,000 shares of common stock authorized			
	Robert Fireman	2,100,000	
	Ann Raider	1,400,000	
Feb-98 The \$500,000 note was converted to 312,000 shares of common stock			
	80% Smith	228,429	\$ 500,000
	20% Boyles	83,571	
Feb-98 \$250,000 investment from Smith and Boyles, CCMI issued			\$ 250,000
155,000 shares of preferred stock		124,000	
	80% Smith	31,000	
	20% Boyles		
May-98 \$250,000 investment from Smith and Boyles, CCMI issued			\$ 250,000
155,000 shares of preferred stock		124,000	
	80% Smith	31,000	
	20% Boyles		
May-98 2 for 1 stock split	Fireman	2,100,000	
	Raider	1,400,000	
	Smith	228,429	248,000
	Boyles	83,571	62,000
Total shares outstanding	7,624,000	620,000	\$ 1,000,000
Additional Paid In Capital			\$ 91,139

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4 of 4

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## **EXHIBIT 2**

STOCK PURCHASE AGREEMENT

between

ROBERT FIREMAN,

ANN RAIDER,

CURTIS R. SMITH,

JOHN H. BOYLES

and

NEWS AMERICA MARKETING IN-STORE INC.

August 13, 1999



## TABLE OF CONTENTS

	<u>Page</u>
1. Purchase and Sale of Shares .....	1
1.1 Purchase and Sale of Shares. ....	1
2. Consideration for Transfer of the Shares .....	2
2.1 Purchase Price .....	2
2.2 Purchase Price Adjustment .....	2
2.3 Earn-Out .....	5
3. Closing Documents .....	7
3.1 Deliveries by Sellers .....	7
3.2 Deliveries by Buyer .....	8
4. Representations and Warranties of the Principal Sellers and the Sellers .....	8
4.1 The Company's Organization and Authority .....	9
4.2 Authorization .....	9
4.3 Freedom to Contract .....	9
4.4 Title to Shares .....	10
4.5 Capitalization; Subsidiaries .....	11
4.6 Financial Statements .....	12
4.7 Absence of Undisclosed Liabilities .....	12
4.8 No Material Adverse Change .....	13
4.9 Real Estate .....	14
4.10 Title to and Condition of Assets; Encumbrances, etc .....	14
4.11 Contracts and Commitments .....	15
4.12 Licenses and Permits .....	16
4.13 Employee Matters .....	16
4.14 Litigation .....	18
4.15 Compliance with Law .....	18
4.16 Software and Information Systems .....	19
4.17 Intellectual Property .....	21
4.18 Trade Secrets .....	23
4.19 Tax Matters .....	24
4.20 Insurance .....	26
4.21 Transactions with Affiliates .....	26
4.22 Environmental Matters .....	27
4.23 Accounts Receivable, etc .....	27
4.24 Brokers' Fees .....	27
4.25 Suppliers and Customers .....	28
4.26 Year 2000 .....	28
4.27 Books and Records .....	29
4.28 Disclosure .....	29

5.	Representations and Warranties of Buyer .....	29
5.1	Buyer's Organization and Authority .....	30
5.2	Authorization of Agreement .....	30
5.3	Freedom to Contract .....	30
5.4	Brokers' Fees .....	31
5.5	Financing .....	31
5.6	Investment Intent .....	31
5.7	Litigation .....	31
6.	Additional Agreements between the Parties .....	32
6.1	Expenses .....	32
6.2	Noncompetition; Nonsolicitation .....	32
6.3	Equitable Remedy .....	33
6.4	Further Assurances .....	34
6.5	Tax Matters .....	34
6.6	Public Announcement .....	35
6.7	Accounts Receivable .....	35
6.8	Conduct of the Business .....	36
7.	Indemnification .....	37
7.1	Indemnification by the Principal Sellers and the Sellers .....	37
7.2	Indemnification by Buyer .....	37
7.3	Notice to the Indemnitor .....	38
7.4	Rights of Parties to Settle or Defend .....	38
7.5	Limitations on Indemnification .....	39
7.6	Reimbursement .....	39
7.7	Survival of Representations and Warranties .....	40
8.	Miscellaneous .....	41
8.1	Entire Agreement .....	41
8.2	Governing Law; Jurisdictions .....	41
8.3	Headings .....	41
8.4	Notices .....	41
8.5	Severability .....	42
8.6	Amendment; Waiver .....	43
8.7	Assignment and Binding Effect .....	43
8.8	No Benefit to Others .....	43
8.9	Counterparts .....	43
8.10	Certain Definitions .....	44
8.11	Interpretation .....	51
8.12	Arrangements Among Sellers .....	51

STOCK PURCHASE AGREEMENT

STOCK PURCHASE AGREEMENT made as of the 13th day of August, 1999, by and among Robert Fireman ("Fireman"), Ann Raider ("Raider" and together with Fireman, the "Principal Sellers"), Curtis R. Smith and John H. Boyles (each a "Seller" and collectively, the "Sellers"), and News America Marketing In-Store Inc., a Delaware corporation ("Buyer").

WITNESSETH:

WHEREAS, the Sellers collectively own all of the issued and outstanding capital stock of Consumer Card Marketing, Inc., a Massachusetts corporation (the "Company");

WHEREAS, the Company specializes in database marketing and provides customer loyalty programs for retail chains through frequent shopper programs;

WHEREAS, upon the terms and conditions set forth herein, the Sellers desire to sell and Buyer desires to purchase all of the shares of capital stock of the Company (the "Shares"); and

WHEREAS, certain terms used in this Agreement are defined in Section 9.10 hereof;

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Purchase and Sale of Shares.

1.1 Purchase and Sale of Shares. Upon the terms and subject to the conditions set forth in this Agreement, concurrently with the execution of this Agreement, the Sellers shall sell, transfer, convey, assign and deliver to Buyer, and Buyer shall purchase and acquire from the Sellers, all of the Shares by delivery to Buyer of certificates representing the Shares, duly endorsed in blank or with duly executed stock powers attached, in proper form for transfer, free and clear of any and all Liens.



2. Consideration for Transfer of the Shares.

2.1 Purchase Price. In consideration for the sale and transfer of the Shares, on the terms and subject to the conditions set forth in this Agreement, concurrently with the execution of this Agreement, Buyer shall pay in cash by wire transfer of immediately available funds the sum of \$2,800,000 (the "Closing Payment") (which amount is subject to adjustment post-closing in accordance with the provisions of Sections 2.2 and 2.3 hereof, the "Purchase Price"). The Purchase Price shall be paid to the Sellers in the amounts and in accordance with the instructions set forth on Schedule 2.1.

2.2 Purchase Price Adjustment. After the Closing, the Purchase Price will be adjusted as follows:

(a) Working Capital Adjustment. As soon as practicable following the date hereof, Buyer shall prepare, or cause to be prepared, and deliver to the Principal Sellers, a balance sheet reflecting the Company's business as of the date hereof (the "Closing Date Balance Sheet"). The Closing Date Balance Sheet shall be prepared in accordance with GAAP consistent with past practices and shall be certified on behalf of Buyer by Buyer's Chief Financial Officer or other executive officer responsible for financial or accounting matters. If the Working Capital as reflected on the Closing Date Balance Sheet is less than zero by an amount in excess of \$200,000 (the "Excess Shortfall"), then the Purchase Price shall be reduced by the amount of such Excess Shortfall and, in such case, the Principal Sellers shall, subject to Section 2.3(d)(ii) hereof, pay Buyer, by wire transfer of immediately available funds, within five (5) Business Days following the later to occur of the date on which the Closing Date Balance Sheet becomes final pursuant to Section 2.2 (b) hereof, or the final resolution of any dispute as provided in Section 2.2(b) hereof, the amount of such ~~Excess~~ Shortfall. The Principal Sellers shall be jointly and severally liable to Buyer for the amount of any

Excess Shortfall. If the Working Capital as reflected on the Closing Date Balance Sheet is less than zero by an amount less than \$200,000 (the "Deficiency"), then the Purchase Price shall be increased by the amount equal to such Deficiency and, in such case, Buyer shall pay to the Principal Sellers by wire transfer of immediately available funds, within five (5) Business Days following the later to occur of the date on which the Closing Date Balance Sheet becomes final pursuant to Section 2.2(d) hereof, or the final resolution of any dispute as provided in Section 2.2(b) hereof, the amount of such Deficiency. The Deficiency shall be paid to Sellers in the proportions and in accordance with the instructions set forth on Schedule 2.1. The Principal Sellers, and if the Principal Sellers deem appropriate, the Company's former independent accountants on the Principal Seller's behalf, shall be entitled to make an independent review of the Closing Date Balance Sheet and the related calculation of the Working Capital and shall, during the ten (10) Business Days following the delivery of the Closing Date Balance Sheet (or twenty (20) Business Days if the Closing Date Balance Sheet is delivered more than sixty (60) days after the date hereof), have prompt access to all relevant financial information and records and all internal and external work papers used to prepare and support the Buyer's certification of the Closing Date Balance Sheet.

(b) Disagreements Regarding Adjustment. The Closing Date Balance Sheet shall become final and binding upon the Sellers unless the Principal Sellers deliver written notice of their disagreement (a "Notice of Disagreement") with respect to the Closing Date Balance Sheet within twenty (20) Business Days following receipt of the Closing Date Balance Sheet (or thirty (30) Business Days if the Closing Date Balance Sheet is delivered more than sixty (60) days after the date hereof). *During the 15-Business Day period following the delivery of a Notice of Disagreement*, Buyer and the Principal Sellers shall attempt to resolve in good faith any differences which they may have with respect to any matter specified in such Notice of Disagreement, and to reduce to writing

such resolution. At the end of such 15-Business Day period any unresolved matters shall be submitted to Arthur Andersen LLP and a certified public accounting firm selected by the Principal Sellers (which may be the Company's former accounting firm) (the "Sellers' Accountant") which accounting firms shall attempt to resolve in good faith all unresolved matters within thirty (30) Business Days following the date on which the matter is submitted to them. If, at the end of such 30-Business Day period, Arthur Andersen LLP and the Sellers' Accountant have been unable to resolve all unresolved matters, the dispute shall be submitted, within five (5) Business Days following the end of such 30-Business Day period, to a nationally recognized independent accounting firm (the "Third Accountant"), to be selected by a consensus of Arthur Andersen LLP and the Sellers' Accountant. The Third Accountant shall render a written decision to the Principal Sellers and Buyer within thirty (30) Business Days after it has been retained, which decision shall be final and binding upon the parties hereto. The costs and expenses of Arthur Andersen LLP and the Sellers' Accountant shall be borne by Buyer and the Principal Sellers, respectively, and the costs and expenses of the Third Accountant, if any, shall be borne equally by Buyer and the Principal Sellers. Any and all Purchase Price adjustment obligations of the Principal Sellers will bear interest at the rate of 150 basis points above the Prime Rate (as defined) from the date hereof until paid in full, and the payment of interest shall be made together with the underlying obligation.

(c) In no event shall (i) the cancellation or write-off of the accounts or notes receivable owing to the Company by Raider in the aggregate amount of \$181,524 (the "Raider Receivable"), or (ii) more than fifty percent (50%) of \$145,000, which shall be paid by the Company to Raider not later than April 1, 2000 and will be accrued as an obligation of the Company to Raider as of the date hereof (the "Raider Bonus"), be given effect in the calculation of Working Capital in

Section 2.2(a) hereof. It is agreed that fifty percent (50%) of the Raider Bonus shall be included in the calculation of Working Capital under Section 2.2(a) hereof.

### 2.3 Earn-Out

(a) Earn-Out Amount. The Purchase Price shall be increased by an amount equal to 16.8%, 14.5%, 13.75%, 13.3% and 12.9% of the Gross Margin of the Company (the "Base Earn-Out Amount"), in respect of each of the first, second, third, fourth and fifth twelve-month periods, respectively, commencing on October 1, 1999 (the "Base Earn-Out Amount") (each a "Base Earn-Out Period"). In addition, the Purchase Price shall be increased (i) by \$1.5 million if the Gross Margin for the twelve-month period commencing October 1, 1999 (the "First-Year Bonus Period") exceeds \$2.1 million, or by \$2.5 million if the Gross Margin in the First-Year Bonus Period exceeds \$3.1 million (in either case, the "First-Year Bonus Amount") and (ii) by \$1.5 million if the Gross Margin for the twelve-month period commencing October 1, 2000 (the "Second-Year Bonus Period") exceeds \$6 million, or by \$2.5 million if the Gross Margin in the Second-Year Bonus Period exceeds \$7.5 million (in either case, the "Second-Year Bonus Amount").

(b) Payment of Earn-Out Amount. Within forty-five (45) days following each Base Earn-Out Period (each a "Base Earn-Out Payment Date"), Buyer shall deliver to the Principal Sellers the Base Earn-Out Amount payable in respect of the Base Earn-Out Period then ended. In addition, within forty-five (45) days following the end of the First-Year Bonus Period (the "First-Year Bonus Payment Date"), Buyer shall deliver to the Principal Sellers the First-Year Bonus Amount, if any, and within forty-five (45) days following the end of the Second-Year Bonus Period (the "Second-Year Bonus Payment Date"), Buyer shall deliver to the Principal Sellers the Second-Year Bonus Amount, if any. All payments to the Principal Sellers under this Section 2.3(b) (each an "Earn-Out Payment") shall be made in cash by wire transfer of immediately available funds in

the proportions, and in accordance with, the instructions set forth on Schedule 2.3(b). The Earn-Out Payment shall be delivered together with a statement, certified by Buyer and signed by Buyer's Chief Financial Officer or other executive officer responsible for financial or accounting matters, reflecting Buyer's Calculation of the Gross Margin for the applicable period (each a "Buyer's Calculation"), which statement shall be delivered whether or not Buyer determines that an Earn-Out Payment is due. The Principal Sellers, and if the Principal Sellers deem appropriate, the Company's former independent accountants on the Principal Sellers' behalf, shall be entitled to make an independent review of the Buyer's Calculation and the related calculation of the Earn-Out Payment and shall, during the ten (10) Business Days following the delivery of the Buyer's Calculation, have prompt access to all relevant financial information and records and all internal and external work papers used to prepare and support the Buyer's certification of the Buyer's Calculation.

(c) Dispute Over Earn-Out Amount. In the event that the Principal Sellers desire to dispute any Buyer's Calculation, the Principal Sellers shall, within twenty (20) Business Days following receipt of such Buyer's Calculation, deliver to Buyer written notice setting forth, in detail, their objections to such Buyer's Calculation (the "Objection Notice"), which dispute shall be resolved in accordance with the procedure outlined in Section 2.2(b) hereof. Any and all Earn-Out Payments will bear interest at the rate of 150 basis points above the Prime Rate from the applicable Base Earn-Out Payment Date, the First-Year Bonus Payment Date, or the Second-Year Bonus Payment Date, as the case may be, unless such amount is not required to be paid in accordance with Section 2.3(d) hereof.

(d) Offset Against Earn-Out Payments.

(i) Subject to Subsection (ii) below, each Earn-Out Payment shall, after compliance with the applicable procedures set forth Sections 2.2, 6.5 or 7.1, be subject to offset for

any amounts owed (at the time as such Earn-Out Payment is due) by the Sellers to Buyer under and pursuant to the terms of Sections 2.2, 6.5 or 7.1 hereof.

(ii) To the extent that an Excess Shortfall is on account of the Raider Bonus (the "Raider Shortfall"), (A) such Raider Shortfall shall be deducted from the First-Year Bonus Amount otherwise payable to the Principal Sellers by Buyer, if any, and (B) if such First-Year Bonus Amount is insufficient to offset the entire Raider Shortfall, the balance shall be deducted from the Second-Year Bonus Amount otherwise payable to the Principal Sellers by Buyer, if any, and (C) if such Second-Year Bonus Amount is insufficient to offset the entire remaining Raider Shortfall, the amount of the Raider Shortfall still owing shall be deducted from the Base Earn-Out Amount payable in respect of the third Base Earn-Out Period. If and to the extent that the Earn-Out Payments described in the preceding sentence are insufficient to offset the entire Raider Shortfall, the Principal Sellers shall pay to Buyer such excess by wire transfer of same day funds within ten (10) Business Days following the date on which the third Base Earn-Out Amount would have been paid had the offset not been made against it.

### 3. Closing Documents.

3.1 Deliveries by Sellers. Concurrently with the execution of this Agreement, Sellers shall deliver to Buyer:

- (a) a certificate or certificates representing the Shares, duly endorsed in blank or with stock powers attached in accordance with Section 1.1 hereof;
- (b) a legal opinion of Goodwin, Procter & Hoar, LLP addressed to Buyer, in form reasonably acceptable to Buyer, that the Company is a corporation validly existing and in good standing under the laws of the State of Delaware, and that the Shares are duly authorized, validly issued, fully paid and nonassessable;

(c) certificates of good standing for the Company issued by its jurisdiction of incorporation and each jurisdiction in which the Company is qualified to do business as a foreign corporation;

(d) Employment Agreements, duly executed by each of Fireman and Raider;

(e) all written consents and approvals listed on Schedule 4.3 hereto; and

(f) written letters of resignation, dated the date hereof, of each officer and director of the Company.

3.2 Deliveries by Buyer. Concurrently with the execution of this Agreement, Buyer shall deliver to Sellers:

(a) a wire transfer to such account(s) as shall be designated in writing by the Sellers in an aggregate amount equal to the Closing Payment;

(b) a legal opinion of Squadron, Ellenoff, Plesent & Sheinfeld, LLP addressed to Sellers, in form reasonably acceptable to Sellers, that the Company is a corporation validly existing and in good standing under the laws of the State of Delaware, and has all requisite corporate power and authority to enter into this Agreement, to carry out its obligations hereunder and to consummate the transactions contemplated hereby; and

(c) duly executed Employment Agreements for each of Fireman and Raider.

4. Representations and Warranties of the Principal Sellers and the Sellers. Each of the Principal Sellers, jointly and severally, hereby represents and warrants to Buyer that the statements contained in this Section 4 are true, correct and complete as of the date hereof, except as disclosed in the Schedules referred to herein. Each of the Sellers, severally and not jointly, represents and warrants to Buyer, as to himself or herself, that the statements contained in Sections 4.2, 4.3 and 4.4 are true, correct and complete as of the date hereof, except as disclosed in the Schedules referred to herein.

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Nothing contained in the Schedules shall be deemed adequate to disclose an exception to a representation or warranty made herein unless such exception is identified with reasonable particularity and detail.

4.1 The Company's Organization and Authority. The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to carry on its business as it has been and is currently being conducted and has all necessary licenses and permits material to such business as it is currently being conducted, and to own, operate and lease its assets. The Company is duly qualified or licensed to do business as a foreign corporation and is in good standing as a foreign corporation in each jurisdiction in which the ownership, operation or lease of its assets or the conduct of its business or location of its properties requires qualification or licensing to do business as a foreign corporation and in which the failure to qualify could have an effect that is materially adverse to the business, assets, properties or condition (financial or otherwise) of the Company (a "Material Adverse Effect").

4.2 Authorization. Each Seller has the capacity and authority to execute and deliver this Agreement, and to perform such Seller's obligations hereunder. This Agreement constitutes the valid and legally binding obligation of each Seller, enforceable against such Seller in accordance with its terms, except to the extent that such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium or similar laws affecting creditors' rights generally or by general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

4.3 Freedom to Contract. Subject to receipt of the consents and approvals described on Schedule 4.3 hereto, the execution, delivery and performance of this Agreement by each Seller and the consummation of the transactions contemplated hereby will not: (i) violate or conflict with any



provision of the certificate of incorporation or by-laws or other charter documents of the Company, each as amended or amended and restated to the date hereof, (ii) violate any of the terms, conditions or provisions of any law, rule, statute, regulation, order, writ, injunction, judgment or decree of any court or Governmental Authority to which the Company or such Seller may be subject, or (iii) conflict with, result in a breach of, constitute (with or without due notice or lapse of time or both) a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, require any notice or give rise to a loss of any benefit under any of the terms, conditions or provisions of any contract, lease, sublease, license, sublicense, franchise, permit, note, bond, indenture, debenture, mortgage, permit, guaranty, joint venture agreement, security agreement, trust agreement, lien or other agreement, instrument, arrangement or obligation, oral or written, to which the Company or any Seller is a party (whether as an original party or as an assignee or successor) or by which the Company or any of its assets or properties are bound. Except as set forth on Schedule 4.3 hereto, no authorization, approval, order, license, permit, franchise or third party consent, and no registration, declaration or filing with any court or Governmental Authority, is required in connection with each Seller's execution, delivery and performance of this Agreement or the consummation of the transactions contemplated hereby.

4.4 Title to Shares. Each Seller, on the date hereof, owns beneficially and of record, free and clear of any Lien, and has full power and authority to convey free and clear of any Lien, the Seller's Shares set forth opposite such Seller's name on Schedule 4.4 hereto, such Shares constitute all of the Shares owned beneficially or of record by such Seller and, upon delivery of the Purchase Price for such Seller's Shares as herein provided, Buyer will acquire good and valid title thereto, free and clear of any Lien other than any Lien resulting from any acts of Buyer or its representatives. Except as set forth on Schedule 4.4 hereto, there are no existing agreements, subscriptions, options,

warrants, calls, commitments or other rights of any kind whatsoever to purchase or otherwise acquire from such Seller at any time any of Seller's Shares or other securities of the Company. Each Seller has the percentage interest in the Company's capital stock set forth opposite such Seller's name on Schedule 4.4 hereto.

4.5 Capitalization; Subsidiaries.

(a) The authorized capital stock of the Company is as set forth on Schedule 4.5 hereto, and the Shares represent all of the issued and outstanding shares of such capital stock. The Shares have been duly and validly issued, are fully paid and nonassessable, with no personal liability attached to the ownership thereof.

(b) As of the date hereof, no shares of capital stock are held in the treasury of the Company and, except as set forth on Schedule 4.5, there are no outstanding (i) securities convertible into or exchangeable for capital stock of the Company; (ii) options, warrants or other rights to purchase, redeem, repurchase or subscribe to capital stock of the Company or securities convertible into or exchangeable for capital stock of the Company; or (iii) contracts, commitments, agreements, understandings or arrangements of any kind, including, without limitation, any stock option plans, relating to the issuance of any capital stock of the Company, any such convertible or exchangeable securities or any such options, warrants or rights.

(c) The Company does not own, directly or indirectly, any capital stock or other equity securities of any corporation or have any direct or indirect ownership interest in any other business or entities, including, without limitation, any limited liability company, partnership, or joint venture.

4.6 Financial Statements.

(a) Attached hereto as Schedule 4.6 hereto are true and complete copies of the following financial statements of the Company:

(i) a balance sheet of the Company as of December 31, 1998 and statements of income, cash flows and changes in stockholders' equity for the fiscal year then ended, certified by the Company's Treasurer; and

(ii) an unaudited balance sheet (the "Interim Balance Sheet") of the Company as of June 30, 1999 (the "Balance Sheet Date"), certified by the Company's Treasurer.

(b) The foregoing financial statements are complete and correct in all respects and have been prepared in accordance with GAAP, consistently applied and fairly present the financial condition of the Company at the dates and the results of operations for the periods set forth therein.

4.7 Absence of Undisclosed Liabilities. Except as set forth on Schedule 4.7 hereto, the Company has no direct or indirect indebtedness, liability, claim, loss, damage, deficiency, obligation or responsibility of any nature whatsoever, with respect to the Company's business whether known or unknown, fixed or unfixed, choate or inchoate, liquidated or unliquidated, secured or unsecured, accrued, absolute, contingent or otherwise, including, without limitation, liabilities on account of taxes, other governmental charges or lawsuits brought ("Liabilities"), other than those Liabilities that (i) are fully and adequately reflected on the Interim Balance Sheet, (ii) have arisen after the Balance Sheet Date in the ordinary course of the Company's business consistent with past practice (none of which is a liability resulting from breach of contract, breach of warranty, tort, infringement, claim or lawsuit), (iii) Liabilities under the Company's contracts and commitments (A) set forth on Schedule 4.11(a) hereto, or (B) not required to be set forth on Schedule 4.11(a) hereto, in each case

for which GAAP does not require the recordation of a financial liability, and (iv) other liabilities set forth on Schedule 4.7 hereto.

4.8 No Material Adverse Change. Except as set forth on Schedule 4.8 hereto, since the Balance Sheet Date, the Company has conducted its business only in the ordinary course of business consistent with past practice and there has not been (a) any event or occurrence outside of the ordinary course of business which has resulted in a Material Adverse Effect, except for the continuation of operating losses incurred historically to the date hereof, (b) any damage, destruction or loss affecting the assets, properties, business or condition of the Company, whether or not covered by insurance, (c) any discharge or satisfaction of any Lien or any capital expenditure or payment of an obligation or liability, except in the ordinary course of business, (d) any transfer, sale or assignment of assets (tangible or intangible) used in connection with the Company's business, except in the ordinary course of its businesses, (e) any cancellation or write-off of any debt, claim, note or account receivable, except for the cancellation or write-off of the Raider Receivable, (f) any incurrence of debt for borrowed money or other liability, other than as incurred in the ordinary course of business, (g) any guarantee of any obligation of any employee, Affiliate or other third party to any person, (h) any mortgage or pledge of the Company's properties or assets, (i) any loan or other advance made to any of the Company's employees, investors or Affiliates, (j) any dividend, distribution, withdrawal or removal by any other means of any of the Company's assets, except for payments to employees and payments made on account of trade payables, notes payable and accrued expenses, in each case, in the ordinary course of business, and forgiveness or cancellation of the Raider Receivable and the payment or accrual of the Raider Bonus, (k) any change in the general character or conduct of the Company's business, (l) any acquisition of, or agreement to acquire, all or substantially all of the assets or stock of another entity, or (m) any issuance or sale of capital stock

or other securities or other membership or ownership interests, exchangeable or convertible securities, options, warrants, puts, calls or other rights to acquire capital stock or other securities or other ownership interests in the Company.

4.9 Real Estate. The Company does not own any real property. Schedule 4.9 hereto sets forth a list and summary description of all real property leased or used by the Company in connection with its business (the "Leased Property"). Schedule 4.9 also sets forth a list of each contract pursuant to which the Company has leased or subleased any Leased Property (the "Leases"). There are no (i) options held by the Company or contractual obligations on the part of the Company to purchase or acquire any interest in real property, or (ii) options granted by the Company or contractual obligations on the part of the Company to sell or dispose of any interest in real property. A true and complete copy of each Lease or other agreement with respect to the leasing of the Leased Property has heretofore been delivered to Buyer. Each of the Leases is valid and effective in accordance with its terms, and no default has been declared with respect to any Lease, and, to the Sellers' best knowledge, no event has occurred that constitutes, or with due notice or lapse of time or both would constitute, a default under any such Lease. The Leased Property constitutes, in the aggregate, all of the real property used to conduct the Company's business as it has been and is currently being conducted, other than home offices in which there are no material assets of the Company.

4.10 Title to and Condition of Assets; Encumbrances, etc. Except as set forth on Schedule 4.10 hereto, the Company has good and marketable title to, or a valid leasehold interest in, all of the assets and properties used by it, located on its premises or shown on the Interim Balance Sheet or acquired thereafter, including, without limitation, all equipment and devices (including data processing hardware and related telecommunications equipment, media and tools), free and clear of any mortgage, pledge, security interest, title defect or objection, lien, charge, claim, restriction,

option, commitment or encumbrance of any kind (collectively, "Liens"), except for Permitted Liens. All assets material to the conduct of the Company's business as presently conducted owned, leased or used by the Company are in good operating condition and repair (except for normal wear and tear), are suitable for the purposes used and are adequate and sufficient for the operations of the Company as currently conducted.

#### 4.11 Contracts and Commitments.

(a) Except as listed on Schedule 4.11(a) hereto, the Company is not a party to any written or oral:

(i) contract, commitment or arrangement relating to the Company's business or the Intellectual Property, or the Company's properties or assets, involving in any one case a remaining obligation of \$5,000 or more, including without limitation, contracts, commitments or arrangements with such a remaining obligation (A) respecting the ownership, license, acquisition, design, development, distribution, marketing, use or maintenance of computer program code, related technical or user documentation, and databases, in each case relating to or arising out of the Company's business, (B) relating to the employment of any officer, individual employee or other person on a full-time, part-time, consulting or other basis, or (C) respecting the ownership or rights of any holder of shares of the Company's capital stock, including, without limitation, shareholder, voting and registration rights agreements.

(ii) contract, commitment or arrangement which would restrain the Company or any Affiliate of the Company from engaging in any business; or

(iii) contract, commitment, or arrangement with remaining obligations not made in the ordinary course of its business.

(b) Except as described in the Schedules hereto, all contracts (oral or written) pursuant to which Company operates its business are valid and effective in accordance with their respective terms, and there is not, under any of such contracts, documents or agreements or any obligation, covenant or condition contained therein, any existing default by the Company or, to the Sellers' best knowledge, by any other party, or, to the Sellers' best knowledge, any event which, with notice, lapse of time, or both, would constitute such default. True and complete copies of all written contracts which are listed on any Schedule hereto and a summary of the terms of each oral contract listed on any Schedule hereto have heretofore been made available to Buyer or its counsel.

4.12 Licenses and Permits. The Company has, possesses or maintains or has been granted all licenses, permits, certificates, franchises and other authorizations or inspections (collectively, "Licenses") of any Governmental Authority which, to the Sellers' best knowledge, are necessary to the ownership or use of the Company's assets or to the conduct of Company's business. Except as disclosed on Schedule 4.12, all the Licenses are in full force and effect and no proceeding is pending or, to the Sellers' best knowledge, threatened seeking the revocation or limitation of any such License.

4.13 Employee Matters.

(a) (i) Except as set forth on Schedule 4.13(a) hereto, the Company does not and has not, within the last two years, for the benefit of current or former employees, maintain, administer or contribute to any "employee benefit plans" ("Benefit Plans") within the meaning of Section 3(3) of ERISA.

(ii) Except as set forth on Schedule 4.13(a) hereto, the Company is not a party to any (A) employment or similar contracts; (B) severance arrangements, (C) bonus or other incentive compensation arrangements; (D) fringe benefit or perquisite plans or arrangements;

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(E) deferred compensation arrangements; (F) non-competition arrangements; or (G) other remunerative arrangements ("plans, contracts and arrangements").

(iii) The Sellers have provided Buyer copies or descriptions of such Benefit Plans and plans, contracts and arrangements set forth on Schedule 4.13(a) hereto. All Benefit Plans and other plans, contracts and arrangements set forth on Schedule 4.13(a) are and have been maintained in compliance with their terms and all requirements of applicable law.

(b) There are no collective bargaining or other agreements between the Company and any union or other employee organizations relating to the Company's employees (the "Employees") whether such agreements are with the Company or, to the Sellers' knowledge, with any independent contractor or management company providing employees to the Company.

(c) Except as set forth on Schedule 4.13(c) hereto, neither the Company nor any member of Company's Group has, within the preceding seven years, contributed to, or had an obligation to contribute to, any "employee pension benefit plan" within the meaning of Section 3(2) of ERISA which is subject to Title IV of ERISA. As used in the preceding sentence, the "Company's Group" includes any person who is, or was at the relevant time, a member of the same "controlled group of corporations" as the Company (within the meaning of Section 414(b) of the Code), or under "common control" with the Company (within the meaning of Section 414(c) of the Code).

(d) (i) The Company is in compliance with all applicable laws relating to the employment practices, terms and conditions of employment and wages and hours with respect to the Employees; (ii) there are no controversies pending or, to the Sellers' best knowledge, threatened, between the Company and any of the Employees, prospective employees, former employees or retirees; and (iii) the Company has paid in full all wages, salaries, commissions,



bonuses, benefits and other compensation due and payable to their respective employees, including those arising under any policy, practice, agreement, program, statute or other law.

(c) Schedule 4.13(e) hereto contains a correct and complete list of (i) the names and current annual salary rates of all the Employees; (ii) the names and amounts, if any, paid, accrued or to be paid to all the Employees under any bonus, incentive or similar plans; (iii) all vacation and sick pay accrued (if any) in respect of the Employees; and (iv) the names of all employees receiving or entitled to elect the continuation of group health plan benefits pursuant to Section 4980B(f) of the Code.

4.14 Litigation. Except as set forth on Schedule 4.14 hereto, the Company has received no notice of any pending or threatened action, suit, inquiry, litigation, proceeding or investigation ("Proceeding") by or before any referee, mediator or arbitrator, or any court or governmental or other regulatory or administrative agency or commission against or involving the Company in respect of the Company's assets or business. The Company is not subject to any judgment, order or decree entered in any lawsuit or proceeding that might adversely affect Buyer's rights in the Company's business or assets or Buyer's ability to conduct the Company's business after the date hereof.

4.15 Compliance with Law.

(a) The Company has complied with, and is not in violation of any, law, ordinance or governmental rule or regulation (including, without limitation, any applicable business and zoning ordinances) to which the Company's business or its assets are subject.

(b) Except as set forth on Schedule 4.15(b) hereto, the Company has not received any claim or notice of any violation of any building, zoning, fire, health, employment or environmental laws, codes, ordinances, rules or regulations relating to the Company's properties, premises, business or employees.

4.16 Software and Information Systems. The Company has all right, title and interest to all computer software programs and software and information systems, in any media, including, without limitation, all program specifications, charts, procedures, input data, databases, compilations, routines, tool sets, compilers, higher level or "proprietary" languages, report layouts and formats, record file layouts, diagrams, functional specifications and narrative descriptions, flow charts and related documentation and materials, whether in source code, object code or human readable form, and all other related material used by the Company (collectively, the "Software"), other than Software licensed by the Company from others, as disclosed on Schedule 4.16. With respect to the Software:

(a) Schedule 4.16 sets forth an accurate and complete list of all Software and identifies (i) Software that is owned by the Company and any licenses or other rights granted by the Company with respect to the Software; (ii) Software that is licensed to the Company, the licensor of the Software, and, if different, the owner thereof, to the extent known to the Company, and whether any copies of the licensed Software have been made, other than in connection with the licensed use thereof or for backup or archival purposes; (iii) any other Software in which the Company has any use, possessory or proprietary rights, the manner in which the Company acquired rights and the owner of the Software; and (iv) all pending Software development projects, together with a description of such projects and the stage of their development, an identification of the persons undertaking the projects, and a description of any Software licensed for use in the projects;

(b) Except as set forth on Schedule 4.16 or as provided in contracts identified on Schedules 4.11 and 4.16, (i) the Software is not subject to any transfer, assignment, source code escrow agreement, reversion, site, equipment, or other operational limitations; (ii) the Company has maintained, protected and distributed the Software with appropriate copyright notices; (iii) the source

code for the Software has been protected by having all persons having access executing confidentiality and non-disclosure agreements prior to gaining access thereto; (iv) the Software is protectable under applicable copyright law and has not been forfeited to the public domain; (v) the Company has copies of all releases or separate versions of the Software, other than versions or releases which have been discarded in the ordinary course of business, and source code for the same, so that the same may be registered in the United States Copyright Office; (vi) Software developed by the Company internally has been developed without the aid or use of any consultants, agents, independent contractors or persons (other than employees of the Company); (vii) Software commissioned for development by the Company and its predecessors has been developed subject to written agreements whereby the ownership of the Software vested immediately in the Company and, to the extent that vesting did not occur, the developer is required to assign all ownership to the Company without further consideration; and (viii) the Company has not registered any copyrights of the Software with the United States Copyright Office and no applications are pending therewith;

(c) All Software documentation is sufficient in detail and content to identify and explain the nature thereof, and to allow its full and proper use by the Company without reliance on the special knowledge or memory of others, and includes pertinent commentary and explanation used for the development, implementation, maintenance and use thereof;

(d) Except as set forth on Schedule 4.16, the Company's rights in the Software are free and clear of any liens, encumbrances, restrictions, or legal or equitable claims of others and there are no agreements or arrangements in effect with respect to the marketing, distribution, licensing, sale, resale or promotion of the Software between the Company and any other person;

(e) Except as set forth on Schedule 4.16, the Company has received no notice of any violation of patent, trade secret rights, copyrights or other proprietary rights with respect to any Software and knows of no basis therefor;

(f) Except as set forth on Schedule 4.16, any copies of Software are in the Company's possession and control, except for certain copies of Software in the possession of customers pursuant to the Company's licensing agreements identified on Schedule 4.16 or in the possession of contract developers under consulting agreements identified on Schedule 4.16.

(g) The Software owned by the Company contains no timer, virus, copy protection device, disabling code, clock, counter or similar routine that causes the Software (or any operation thereof) or become erased, inoperable, impaired, or otherwise incapable of being used in the full manner for which it was contemplated for use; and

(h) The Software does not contain any encryption, cryptographic or other technology which is prohibited by law, including, but not limited to, regulations of the United States Department of Commerce, the United States State Department or any other applicable laws or regulations.

4.17 Intellectual Property. Schedule 4.17 sets forth an accurate and complete list and description (showing, in each case, any product, device, process, service or publication covered thereby, the registered or other owner, registration number and registration or other expiration date, if any) of all Trademarks and Copyrights in marketing materials utilized by or in which the Company has an interest (the "Intellectual Property"). The Company does not own, utilize or have an interest in any Patent Rights. With respect to the Intellectual Property:

(a) Except as set forth on Schedule 4.17, which Schedule sets forth with specificity the nature of the Company's rights (or grant of rights), any limitations thereon, the owner

of such rights (or the licensee or grantee of such rights and the nature of such grant), the term of the relevant agreement(s) pursuant to which the Company obtained (or granted) such rights, the Company is the sole and exclusive owner of the Intellectual Property and has the sole and exclusive right to use the Intellectual Property;

(b) Except as set forth on Schedule 4.17, with respect to the Intellectual Property, no action, suit, proceeding or investigation is pending or, to the Company's knowledge, threatened, against the Company, that the Intellectual Property owned by the Company, or owned by third parties and licensed to the Company, interferes with, infringes upon, conflicts with or otherwise violates the rights of others or is being interfered with or infringed upon by others;

(c) Except as set forth on Schedule 4.17, the Company is not subject to any judgment, order, writ, injunction or decree of any court or any Federal, state, local or other governmental agency or instrumentality, domestic or foreign, or any arbitrator, nor is it a party to any contract which, in either case, restricts or impairs the Company's use of any Intellectual Property owned by the Company;

(d) The Company has all right, title and interest necessary for the publication, reproduction, preparation of derivative works and distribution of the Intellectual Property owned by the Company;

(e) Except as set forth on Schedule 4.17, during the preceding five (5) years, the Company has not been known by or done business under any other name not listed on such Schedule;

(f) For purposes of this Agreement and the provisions of this Section, the following terms shall have the following meanings:

(i) "Copyrights" means United States and foreign copyrights, copyrightable works, and mask works, whether registered or unregistered, and pending applications to register the same;

(ii) "Patent Rights" means United States and foreign patents, patent applications, continuations, continuations-in-part, divisions, reissues, patent disclosures, inventions (whether or not patented) or improvements thereto; and

(iii) "Trademarks" means United States, state and foreign trademarks, service marks, logos, trade dress, trade styles, trade names (including all assumed or fictitious names under which the party is conducting business or has within the past five years conducted business), product designations, logos, brands and any other source-identifying devices or symbols, and any combination or variations thereof, whether registered or unregistered, and pending applications to register the foregoing and all registrations thereof.

4.18 Trade Secrets. Schedule 4.18 sets forth an accurate and complete list of all customer and prospective customer lists of the Company that may provide the Company with an advantage over competitors who did not know or use them (the "Trade Secrets"). With respect to the Trade Secrets:

(a) they are owned solely and exclusively by the Company and the Company, or its independent contractors, agents or consultants who were subject to written agreements whereby the ownership of the Trade Secrets vested immediately in the Company, is solely responsible for development of the Trade Secrets;

(b) they are documented in sufficient detail and content to identify and explain the nature thereof and in condition readily usable by the Company;

(c) they have been maintained and protected with all reasonable precautions to protect their secrecy, confidentiality and value; and

(d) they are not part of the public knowledge or literature and, to the Company's knowledge, have not been used, divulged or appropriated either for the benefit of any third party or to the detriment of the Company. No Trade Secret is subject to any adverse claim or has been challenged or threatened in any way.

#### 4.19 Tax Matters.

(a) Except as set forth on Schedule 4.19, the Company has duly and timely filed or caused to be filed all Federal, state, local and foreign income, franchise, excise, payroll, sales and use, property and withholding tax returns, reports, estimates and information and other statements or returns (collectively "Tax Returns") required to be filed by or on behalf of it prior to the date hereof pursuant to any applicable federal, state, local or foreign tax laws for all years and periods for which such Tax Returns have become due, except where the time for filing any such Tax Return has been extended in accordance with applicable law. All such Tax Returns were correct in all material respects as filed and correctly reflect the Federal, state, local and foreign income, franchise, excise, payroll, sales and use, property, withholding and other taxes, duties, imposts and governmental charges (and charges in lieu of any thereof), together with interest, additions to tax and penalties (collectively "Taxes") required to be paid or collected by (or allocable to) the Company.

(b) There are no Liens for Taxes upon any property of the Company except for Permitted Liens. All amounts required to be withheld by the Company from its employees for income taxes, social security and other payroll Taxes, including all amounts resulting from the consummation of the transactions contemplated hereby or referred to in the Schedules hereto, have been collected and withheld, and paid to the respective governmental agencies, or set aside in



accounts for such purpose, or accrued, reserved against and entered upon the Company's books and records.

(c) Except as set forth on Schedule 4.19, no written claim has ever been made by a taxing authority in a jurisdiction where the Company does not file Tax Returns that the Company is or may be subject to Taxes assessed by such jurisdiction.

(d) Except as set forth on Schedule 4.19, the Company (i) has paid or caused to be paid all Taxes required to be paid by it through the date hereof and (ii) has, in accordance with GAAP consistently applied, accrued on its Interim Balance Sheet referred to in Section 4.6 above, all Taxes for any period from the date of the last reporting period covered by any Tax Returns up to and including the Balance Sheet Date.

(e) There is no pending or potential audit, dispute or claim concerning any Tax Return or Tax liability of the Company now in progress or, to the Sellers' best knowledge, threatened against the Company.

(f) The Company will not be required to pay any Taxes as a result of the consummation of the transactions contemplated hereby, except for any Taxes that might be due in connection with the write-off or cancellation of the Raider Receivable or the accrual or payment of the Raider Bonus.

(g) The Company is not and has not been a party to any Tax sharing agreement.

(h) The Company has not incurred any obligation to make (or, to the Sellers' best knowledge, possibly make) any payments that (A) will be non-deductible under, or would otherwise constitute a "parachute payment" within the meaning of, Section 280G of the Internal Revenue Code of 1986, as amended (the "Code") (or any corresponding provision of state, local or foreign income



Tax law) or (B) are or may be subject to the imposition of an excise tax under Section 4999 of the Code.

(i) The Company has never been included in a consolidated, unitary, combined or other such Tax Return with another entity. The Company has no liability for the Taxes of any other person (other than the Company) under Treasury Regulation Section 1.1502-6 (or any similar provision of state, local or foreign law) as a transferee or successor by contract or otherwise.

4.20 Insurance. Schedule 4.20 hereto contains a correct list of all policies or binders of insurance held by or on behalf of the Company relating to its businesses, or providing coverage for any of its properties or assets (in each case specifying the insurer, the amount of coverage, the type of insurance, the risks insured, the expiration date, and the policy number) and, except as set forth on such Schedule, all premiums due prior to the date hereof with respect thereto covering all periods up to and including the date hereof have been paid, and no notice of cancellation or termination has been received with respect to any such policy. All such policies are in full force and effect and provide insurance including, without limitation, liability insurance, in such amounts against such risks as is customary for companies engaged in similar businesses to the Company to protect the employees, properties, assets, businesses and operations of the Company, in each case naming the Company as beneficiary. To the Sellers' best knowledge, no state of fact exists and no event has occurred which reasonably might form the basis of any claim against the Company relating to its business which might substantially increase the insurance premiums payable under or result in the cancellation or nonrenewal of any of the policies or binders listed on Schedule 4.20.

4.21 Transactions with Affiliates. Except as described on Schedule 4.21 hereto, no Seller owns, directly or indirectly, or has any interest in, any business, corporate or otherwise, which is a

party to any agreement, business arrangement or course of dealing with the Company relating to the Company's business.

4.22 Environmental Matters.

(a) The Company is in compliance with all Environmental Laws applicable to the Company's business. There are no Environmental Claims relating to the Company's business pending or, to the Sellers' best knowledge, threatened against or involving the Company.

(b) Except as set forth on Schedule 4.22 hereto, to the Sellers' knowledge, no underground tank or other underground storage receptacle for Hazardous Substances is currently located at any Leased Property and to the Sellers' knowledge, there have been no releases of any Hazardous Substances at any Leased Property. True and correct copies of all Environmental Reports have been made available to Buyer.

4.23 Accounts Receivable, etc. Schedule 4.23 hereto accurately sets forth the aging of the accounts receivable of the Company with respect to the Company's business, each as of a recent date. All of the accounts receivable to be reflected on the Closing Date Balance Sheet shall have arisen in the ordinary course of business for goods sold or services performed and shall be fully collectible within 120 days following the date hereof, subject to a 3% allowance for returns and reserve for uncollectible and bad debts against the accounts receivable to be reflected on the Closing Date Balance Sheet (the "Reserve"). The Reserve shall be adequate to cover all returns and uncollectible receivables.

4.24 Brokers' Fees. Neither the Company nor any Seller has any liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement.

4.25 Suppliers and Customers. Schedule 4.25 hereto sets forth a list of the ten largest customers and the ten largest suppliers of the Company by dollar volume of revenues for the year ended December 31, 1998. Except as set forth on Schedule 4.25, no single supplier or customer is of material importance to the Company's business. To the Sellers' best knowledge, the relationships of the Company with its suppliers and customers are good commercial working relationships and no such supplier or customer has canceled or otherwise terminated, or threatened in writing to cancel or otherwise terminate, its relationship with the Company or has during the last twelve (12) months decreased materially, or threatened to decrease or limit materially, its services, supplies or materials to the Company or its usage of the Company's services or products, as the case may be. The Company has received no notice that any such supplier or customer intends to cancel or otherwise modify its relationship with the Company or to decrease materially or limit its services, supplies or materials to the Company or its usage of the services or products of the Company.

4.26 Year 2000. All of the Company's products currently being sold or licensed and under development, including the Software, and all of the Company's computer software and hardware (including microcode, firmware, system and application programs, files, databases, computer services and microcontrollers), processes, data and operating systems are, to the Sellers' best knowledge, Year 2000 Compliant. To the Sellers' best knowledge, all of the software, products, data and operating systems of third parties, if any, used by the Company or otherwise interfaced with the Company's software, products, data or operating systems are Year 2000 Compliant. For purposes of this Agreement, the "Year 2000 Compliant" shall mean that such (a) products, processes, software, and data and operating systems, individually and in combination, completely and accurately record, store, process, calculate, transmit, display and present calendar dates on or after, and, if applicable, spans of time including, January 1, 2000; (b) the occurrence in or use by any

products, processes, software, or data and operating systems, individually and in combination, of dates before, on or after January 1, 2000 will not adversely affect the performance of such products, processes, software, or data and operating systems, with respect to date-dependent data, computations, output, or other functions, including, without limitation, calculating, comparing, and sequencing; (c) products, processes, software, or data and operating systems will not abnormally end or provide invalid or incorrect results as a result of date-dependent data; and (d) products, processes, software, or data and operating systems can accurately recognize, manage, accommodate, and manipulate date-dependent data, including, without limitation, single and multi-century formulas and leap years.

4.27 Books and Records. All constituent documents, business licenses, minute books, stock certificate books and stock transfer ledgers of the Company (collectively, the "Records") have been made available to Buyer or its counsel maintained in accordance with sound business practices and laws, rules and regulations applicable to the Company or its properties or assets. The Records are complete and accurate in all respects and contain all matters required to be dealt with in such Records.

4.28 Disclosure. The representations, warranties and statements contained in this Agreement and in the certificates, exhibits and schedules delivered to Buyer by the Sellers pursuant to this Agreement do not contain any untrue statement of a material fact, and, when taken together, do not omit to state a material fact required to be stated therein or necessary in order to make such representations, warranties or statements not misleading in light of the circumstances under which they were made.

5. Representations and Warranties of Buyer. Buyer hereby represents and warrants to the Sellers that the statements contained in this Section 5 are true, correct and complete as of the date

hereof, except as disclosed in the Schedules referred to herein. Nothing contained in the Schedules shall be deemed adequate to disclose an exception to a representation or warranty made herein unless such exception is identified with reasonable particularity and detail.

5.1 Buyer's Organization and Authority. Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform fully its obligations hereunder.

5.2 Authorization of Agreement. The execution, delivery and performance of this Agreement by Buyer and the consummation by Buyer of the transactions contemplated hereby have been duly authorized by all necessary corporate action of Buyer. This Agreement constitutes, and each document and instrument contemplated by this Agreement to be executed by Buyer, when executed and delivered in accordance with the provisions thereof shall constitute, the valid and legally binding obligation of Buyer, enforceable against Buyer in accordance with its terms, except to the extent that such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium or similar laws affecting creditors' rights generally or by general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

5.3 Freedom to Contract. The execution, delivery and performance of this Agreement by Buyer and the consummation of the transactions contemplated hereby will not: (i) violate or conflict with any provision of the certificate of incorporation or by-laws or other charter documents of Buyer, each as amended or amended and restated to the date hereof, (ii) violate any of the terms, conditions or provisions of any law, rule, statute, regulation, order, writ, injunction, judgment or decree of any court or Governmental Authority to which Buyer may be subject, or (iii) conflict with,

result in a breach of, constitute (with or without due notice or lapse of time or both) a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, require any notice of give rise to a loss of any benefit under any of the terms, conditions or provisions of any contract, lease, sublease, license, sublicense, franchise, permit, note, bond, indenture, debenture, mortgage, permit, guaranty, joint venture agreement, security agreement, trust agreement, lien or other agreement, instrument, arrangement or obligation, oral or written, to which Buyer is a party (whether as an original party or as an assignee or successor) or by which Buyer or any of its assets or properties are bound. Except as set forth on Schedule 5.3, no authorization, approval, order, license, permit, franchise or third party consent, and no registration, declaration or filing with any court or Governmental Authority, is required in connection with Buyer's execution, delivery and performance of this Agreement or the consummation of the transactions contemplated hereby.

5.4 Brokers' Fees. Buyer has no liability or obligation to pay any fees or commissions to any broker, finder or agent with respect to the transactions contemplated by this Agreement.

5.5 Financing. The Buyer has all funds necessary to pay the Closing Payment and will continue to have all funds necessary to pay the Earn-Out Payments (if any) and comply with the covenants with respect to the Earn-Out Payments.

5.6 Investment Intent. The Buyer is acquiring the Shares solely for investment and not with a view to, or for offer or sale in connection with, any distribution.

5.7 Litigation. There is no Proceeding against the Buyer which would have a material adverse effect on the ability of the Buyer to perform its obligations under this Agreement.

6. Additional Agreements between the Parties.

6.1 Expenses. The parties to this Agreement shall, except as otherwise specifically provided herein, bear their respective expenses incurred in connection with the preparation, execution and performance of this Agreement and the transactions contemplated hereby, including, without limitation, all fees and expenses of brokers, agents, representatives, counsel and accountants, *provided*, that legal fees and disbursements incurred on behalf of Sellers and reflected on an invoice submitted to Buyer by Sellers' counsel at least one day prior to Closing shall be paid at Closing by the Company or by Buyer for the Company's account which amount shall, be reflected as a liability on the Closing Date Balance Sheet.

6.2 Noncompetition; Nonsolicitation. Each of the Principal Sellers hereby agrees, that neither such Principal Seller nor any of such Principal Seller's Affiliates shall, from and after the date hereof, for the Non-Compete Term (as defined in respective the Employment Agreements dated as of the date hereof between Buyer and each of the Principal Sellers), Participate In any business which is competitive with (a) the business of the Company as conducted on the date hereof, (b) any of the following businesses in which Buyer currently is or intends to be engaged: (i) selling in-store media, (ii) selling sampling and merchandising services, (iii) selling free-standing inserts, and (iv) selling internet coupons and promotions to consumer packaged goods companies or retailers, or (c) any other business conducted by Buyer in which such Principal Seller participates in as an employee of Buyer or otherwise has access to confidential information of the Company or the Buyer relating to such business through his or her employment by the Company or the Buyer ("Buyer's Business"). Without limiting the scope of the foregoing, neither Principal Seller nor any of such Principal Seller's Affiliates shall, during the Non-Compete Term, directly or indirectly, (i) solicit for employment, or assist any other person, firm, corporation or other entity in soliciting for



employment, any person who currently is an employee of Buyer, including, without limitation, those employees who are hired in connection with the transactions contemplated by this Agreement, (ii) employ or assist any other person, firm, corporation, or other entity in employing any person who currently is a non-administrative employee of Buyer, including, without limitation, those employees who are hired in connection with the transactions contemplated by this Agreement, or (iii) solicit the business of, or assist any other person, firm, corporation or other entity in soliciting the business of, any customer or supplier of Buyer with respect to (A) the business of the Company as conducted on the date hereof, or (B) the Buyer's Business, including those customers or suppliers acquired in connection with the transactions contemplated by this Agreement.

6.3 Equitable Remedy. Each Principal Seller acknowledges and agrees that, in the event such Principal Seller shall breach or threaten to breach any of the terms of Section 6.2 hereof, Buyer shall be entitled, in addition to any other right and remedy available to it, to an injunction restraining such breach or a threatened breach and to have the provisions of such Section specifically enforced by a court having jurisdiction, it being acknowledged and agreed by each Principal Seller that any such breach or threatened breach will cause immediate irreparable damage to Buyer and that money damages in an action at law will not provide an adequate remedy. No bond or other security shall be required in connection with the issuance of an injunction. Such right and remedy shall be in addition to, and not in lieu of, any other rights and remedies available to Buyer at law or in equity. Each Principal Seller and Buyer agree that the provisions of this Section 6.3 are necessary and reasonable to protect Buyer in the conduct of the Company's business and that the covenants set forth in Section 6.2 hereof are reasonable and valid in temporal scope and in all respects. The invalidity or unenforceability of any part of such covenant or any other provision hereof shall not affect the remainder of such covenant or such other provision, which shall be given full effect, without regard



to the invalid portions, and the invalidity or unenforceability of any provision of this Agreement in any jurisdiction shall not affect the validity, legality or enforceability of this Agreement, or any provision hereof, in any other jurisdiction, it being intended that all rights and obligations of the parties hereunder shall be enforceable to the fullest extent permitted by law.

6.4 Further Assurances. From and after the date hereof, the Sellers, on the one hand, and Buyer, on the other, agree to execute and deliver such further documents and instruments and to do such other acts and things as Buyer or the Sellers, as the case may be, may reasonably request in order to effectuate the transactions contemplated by this Agreement. Following the date hereof, the parties will cooperate with each other in connection with any tax and in the defense of any legal proceedings relating to the Company's business or its assets to the extent such cooperation does not cause unreasonable expense, unless such expense is borne by the requesting party.

6.5 Tax Matters.

(a) Responsibility for Taxes. Notwithstanding anything else to the contrary in this Agreement, subject to the procedures and limitations set forth in Section 7 hereof, the Principal Sellers will pay and be responsible for, and will indemnify and hold Buyer harmless from and against any Losses related to:

(i) any and all Taxes attributable to or arising out of the operations or activities of the Company or otherwise incurred in connection with the Company's assets for any Tax period (or portion thereof) ending on or before the date hereof; and

(ii) any and all Taxes, including, but not limited to, sales, use and real property transfer taxes, attributable to or arising out of the transactions contemplated in this Agreement, which Taxes are not accrued on the Closing Date Balance Sheet.

(b) Cooperation on Tax Matters. Buyer and the Sellers will cooperate fully, as and to the extent reasonably requested by the other party, in connection with the preparation and filing of any Tax Return and any audit, litigation or other proceeding with respect to Taxes. Such cooperation will include (i) the retention and (upon the other party's request) the provision of records and information which are reasonably relevant to any such audit, litigation or other proceeding for a period of seven (7) years, and (ii) making themselves, their employees and agents available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder.

6.6 Public Announcements. Each party to this Agreement shall consult with each other before issuing any press release or otherwise making any public statements with respect to this Agreement or any transaction contemplated hereby and shall not issue any such press release or make any such public statement without the prior consent of the other party (unless required by law), which consent shall not be unreasonably withheld. The parties hereto further agree to cooperate to prepare a joint press release to be issued on the date hereof or as soon as practicable hereafter.

6.7 Accounts Receivable.

(a) After the date hereof, the Company shall collect its accounts receivable reflected on the Closing Date Balance Sheet (the "Accounts Receivable") in a commercially reasonable fashion in the ordinary course of business consistent with past practices. Buyer shall furnish Sellers with all such records and other information as Sellers may reasonably require to verify the amounts collected by Buyer with respect to the Accounts Receivable. For the purpose of determining amounts collected by Buyer with respect to the Accounts Receivable, (i) if a payment is specified by an account debtor as being in payment of a specific invoice of Buyer or Sellers, as the case may be, the payment shall be applied to that invoice and (ii) in the absence of a bona fide

dispute between an account debtor and Sellers, all payments by an account debtor that are not specified as being in payment of a specific invoice shall first be applied to the oldest outstanding invoice due from that account debtor. Notwithstanding the foregoing, Buyer shall not be required to retain a collection agency, bring any suit or take any other action out of the ordinary course of business to collect any of the Accounts Receivable. Buyer shall not compromise, settle or adjust the amount of any of the Accounts Receivable without the prior written consent of the Sellers, which consent shall not be withheld unreasonably.

(b) To the extent that Buyer has not collected the full amount of the Accounts Receivable (net of the allowance for returns and reserve for uncollectible and bad debts referred to in Section 4.23) shown on the Closing Date Balance Sheet (the "Full Amount") within 120 days after the date hereof, the Principal Sellers thereupon shall pay to Buyer by wire transfer of same day funds, the amount of such deficiency and, concurrently with the payment by the Principal Sellers thereof, Buyer (or the Company) shall assign to the Principal Sellers all uncollected Accounts Receivable. Buyer agrees that, to the extent it is actually paid by any Principal Seller with respect to any account receivable (including by way of the calculation of the Shortfall), whether such amount is applied against the Deductible (as defined herein), it shall have no rights or obligations with respect to any such account receivable and shall pay to Sellers any amounts received thereafter on such account receivable.

6.8 Conduct of the Business. It is Buyer's current intention to provide support to the business of the Company by, among other things, (i) utilizing Buyer's sales force in order to promote the sale of the Company's products, (ii) assisting the Company in the creation of long-term relationships with retailers, and (iii) investing in software and hardware as needed to expand the Company's business. Notwithstanding the foregoing, Buyer shall be free to operate the Company

and its Affiliates in its sole and unfettered judgment and Sellers shall have no claim against Buyer in connection therewith as a result of the preceding sentence. Buyer hereby agrees that the direct sales expenses for the first and second Base Earn-Out Periods shall not exceed \$1.0 million and \$1.4 million, respectively, unless otherwise agreed by Buyer, on the one hand, and Fireman and Raider, on the other hand.

## 7. Indemnification.

7.1 Indemnification by the Principal Sellers and the Sellers. Subject to Section 7.5 hereof and the last sentence of this Section 7.1, the Principal Sellers jointly and severally agree to indemnify Buyer and hold it harmless at all times from and after the date hereof against and in respect to any and all actions, suits, proceedings, claims, demands, assessments, judgments, costs, damages, losses, liabilities, Taxes and deficiencies and penalties and interest thereon and costs and expenses, including reasonable attorneys' fees and expenses (collectively, "Losses") resulting from any breach of any representation or warranty contained in Section 4 hereof, or the breach of any covenant or agreement of the Sellers in this Agreement, and (b) any claim arising from or relating to any Proceeding listed on Schedule 4.14 hereto except to the extent that an accrual in respect of the Company's entire liability for any such Proceeding is reflected on the Closing Date Balance Sheet. Each of the Sellers severally and not jointly agree to indemnify Buyer and hold it harmless at all times from and after the date hereof against and in respect to any and all Losses resulting from any breach of any of such Seller's representation or warranty contained in Section 4.2, 4.3 or 4.4 hereof.

7.2 Indemnification by Buyer. Subject to Section 7.5 hereof, Buyer agrees to indemnify the Sellers and hold them harmless at all times from and after the date hereof against and in respect to any and all Losses resulting from any breach of any representation or warranty contained in Section 5 hereof or the breach of any covenant or agreement of Buyer in this Agreement.

7.3 Notice to the Indemnitor. Promptly after the assertion of any claim by a third party or occurrence of any event which may give rise to a claim for indemnification from an indemnitor (the "Indemnitor") under this Section, an indemnified party (the "Indemnified Party") shall notify the Indemnitor in writing of such claim (the "Claims Notice"). The Claims Notice shall describe the asserted liability in reasonable detail, and shall indicate the amount (estimated, if necessary and to the extent feasible) of the Loss that has been or may be suffered by the Indemnified Party. Failure by the Indemnified Party to give a Claims Notice to the Indemnitor in accordance with the provisions of this Section 7.3 shall not relieve the Indemnitor of its obligations hereunder except to the extent that the Indemnitor has been actually prejudiced by such failure.

7.4 Rights of Parties to Settle or Defend. The Indemnitor may elect to compromise or defend, at its own expense, by its own counsel, any asserted liability. If the Indemnitor elects to compromise or defend such asserted liability, it shall, within thirty (30) calendar days following the date of the Claims Notice (or sooner, if the nature of the asserted liability so requires), notify the Indemnified Party of its intent to do so, and the Indemnified Party shall cooperate, at the expense of the Indemnitor, in the compromise of, or defense against, such asserted liability. If the Indemnitor elects to defend any claim, the Indemnified Party shall make available to the Indemnitor any books, records or other documents within its control that are necessary or appropriate for such defense. If the Indemnitor elects not to compromise or defend the asserted liability or fails to notify the Indemnified Party of its election as herein provided, the Indemnified Party may pay, compromise or defend (at the expense of the Indemnitor) such asserted liability as the Indemnified Party considers appropriate. The parties agree to cooperate fully with one another in the defense, settlement or compromise of any asserted liability. Notwithstanding the foregoing, neither the Indemnitor nor the Indemnified Party may settle or compromise any claim over the objection of the other; *provided*, that

consent to settlement or compromise shall not be unreasonably withheld. In any event, the Indemnified Party and the Indemnitor may participate, at their own expense, in the defense of such asserted liability.

7.5 Limitations on Indemnification. Notwithstanding the foregoing, the right of an Indemnified Party to indemnification under Sections 7.1 or 7.2 of this Agreement shall be subject to the following provisions:

(a) The indemnification obligations of an Indemnified Party pursuant to Sections 7.1 and 7.2 shall not be effective until the aggregate dollar amount of all Losses that would otherwise be indemnified pursuant to such section exceeds \$50,000 (the "Deductible"), and then only to the extent such aggregate amount exceeds the Deductible. In no event shall the aggregate amount required to be paid by either party to the other under Section 7.1 or 7.2 of this Agreement exceed the Purchase Price; *provided*, however, that this limitation shall not apply to Sellers' indemnification obligations arising from a breach of any representation or warranty contained in Sections 4.2 or 4.4 hereof; and *provided*, further, that the Sellers shall be severally and not jointly liable to Buyer for any breach of any representation or warranty contained in Sections 4.2 or 4.4 made by each Seller with respect to himself or herself.

(b) For purposes of this Section 7.5, in computing such individual or aggregate amounts of claims, the amount of any insurance proceeds (which the Indemnified Party agrees to use commercially reasonable efforts to pursue) and any indemnity, contribution or other similar payment actually received by an Indemnified Party from any third party with respect thereto shall be deducted from each such claim.

7.6 Reimbursement. At the time that the Indemnified Party shall suffer a loss because of a breach of any warranty, representation or covenant by the Indemnitor or at the time the amount

of any liability on the part of the Indemnitor under this Section is determined (which in the case of payments to third persons shall be the earlier of (i) the date of such payments, or (ii) the date that a court of competent jurisdiction shall enter a final judgment, order or decree, the Indemnitor shall forthwith, upon notice from the Indemnified Party, pay to the Indemnified Party by wire transfer of same day funds, the amount of the indemnity claim which is in excess of the Deferred Amount. If such amount is not paid forthwith, then the Indemnified Party may, at its option, take legal action against the Indemnitor for reimbursement in the amount of the indemnity claim which is in excess of the Deferred Amount. For purposes hereof, the indemnity claim shall include the amounts so paid (or determined to be owing) by the Indemnified Party together with costs and reasonable attorneys' fees and interest on the foregoing items at the rate of 150 basis points above the Prime Rate from the date the obligation is due from the Indemnitor to the Indemnified Party, as hereinabove provided, until the indemnity claim shall be paid, irrespective of whether Buyer's claims for indemnification are paid in cash or by the reduction of the Earn-Out Payments due pursuant to Section 2.3 hereof.

7.7 Survival of Representations and Warranties. Notwithstanding any right of Buyer to investigate the affairs of the Company's business, Buyer has the right to rely fully upon the representations, warranties, covenants and agreements of the Sellers contained in this Agreement. All representations and warranties made by each party in this Agreement or in any certificate, document or written statement referred to herein or furnished or delivered in connection with this Agreement shall survive the date hereof, and shall remain in full force and effect until eighteen (18) months after the date hereof; *provided*, that all representations and warranties contained in Sections 4.4, 4.5, 4.13, 4.19 shall survive for the applicable statute of limitations; and *provided, further*, that all other covenants and agreements shall survive the execution and delivery hereof and shall thereafter terminate and expire in accordance with the terms thereof, or, if no such expiration time



is stated, when the liability to which any such covenant or agreement may relate is barred by the applicable statute of limitations. No claim for breaches of representations or warranties in this Agreement, or indemnification in respect of the same, may be made unless and only to the extent that the party claiming a breach, or requesting indemnification, gives written notice of such breach pursuant to Section 7.3 hereof to the breaching party on or prior to the date that the representation or warranty at issue ceases to survive as provided in this Section 7.7.

8. Miscellaneous.

8.1 Entire Agreement. This Agreement (together with the Schedules hereto) contain, and are intended as, a complete statement of all of the terms of the arrangements between the parties with respect to the matters provided for, and supersedes any previous agreements and understandings between the parties with respect to those matters.

8.2 Governing Law; Jurisdictions. This agreement shall be governed by, and construed and enforced in accordance with the laws of the State of New York. The parties hereto irrevocably consent to the jurisdiction of the courts of the State of New York and any Federal court located in such State in connection with any action or proceeding arising out of or relating to this Agreement, or the transaction contemplated hereby.

8.3 Headings. The Section headings of this Agreement are for reference purposes only and are to be given no effect in the construction or interpretation of this Agreement.

8.4 Notices. All notices and other communications under this Agreement shall be in writing and shall be deemed given when delivered personally, mailed by registered or certified mail, return receipt requested, or sent by recognized overnight delivery service to the parties at the following addresses (or to such other address as a party may have specified by notice given to the other party pursuant to this provision):



If to any Seller, to:

such Seller's address set forth on the signature page hereto.

*with a copy to:*

each other Seller at the address specified on the signature page hereto.

If to Buyer, to:

News America Marketing In-Store, Inc.  
1211 Avenue of the Americas  
New York, New York 10036  
Attention: David DeVoe, Jr.

*with copies to:*

The News Corporation Limited  
1211 Avenue of the Americas  
New York, New York 10036  
Attention: Lawrence A. Jacobs, Esq.

*and:*

Squadron, Ellenoff, Plesent & Sheinfeld, LLP  
551 Fifth Avenue  
New York, New York 10176  
Attention: Deborah R. Wolfe, Esq.

8.5 Severability. If at any time any of the covenants or the provisions contained herein shall be deemed invalid or unenforceable by the laws of the jurisdiction wherein it is to be enforced, by reason of being vague or unreasonable as to duration, geographic scope, scope of activities restricted or for any other reason, such covenants or provisions shall be considered divisible as to such portion and such covenants or provisions shall become and be immediately amended and reformed to include only such covenants or provisions as are enforceable by the court or other body having jurisdiction of this Agreement; and the parties agree that such covenants or provisions, as so

amended and reformed, shall be valid and binding as though the invalid or unenforceable portion had not been included herein.

8.6 Amendment; Waiver. No provision of this Agreement may be amended or modified except by an instrument or instruments in writing signed by the parties hereto. No waiver of any provision hereof shall be construed as a waiver of any other provision. Any waiver must be in writing.

8.7 Assignment and Binding Effect. None of the parties hereto may assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other; *provided*, that Buyer may assign any of its rights or delegate any of its duties to any Affiliate of Buyer following written notice to the Sellers and without relieving Buyer from any liability or obligations hereunder; *provided*, that such assignee agrees in writing for the benefit of the Sellers, to assume the obligations of Buyer set forth in this Agreement. All of the terms and provisions of this Agreement shall be binding on, and shall inure to the benefit of, the respective successors and permitted assigns of the parties.

8.8 No Benefit to Others. The representations, warranties, covenants and agreements contained in this Agreement are for the sole benefit of the parties hereto and their respective successors and assigns and they shall not be construed as conferring and are not intended to confer any rights on any other persons.

8.9 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and each party may become a party hereto by executing a counterpart hereof. This Agreement and any counterpart so executed shall be deemed to be one and the same instrument.

8.10 Certain Definitions. The following terms, as used herein, have the following meanings:

"Affiliate" means with respect to any person or entity, means any person or entity directly or indirectly controlling, controlled by or under common control with such person or entity.

"Balance Sheet Date" shall have the meaning set forth in Section 4.6(a)(ii) hereof.

"Base Earn-Out Amount" shall have the meaning set forth in Section 2.3(a) hereof.

"Base Earn-Out Payment Date" shall have the meaning set forth in Section 2.3(b) hereof.

"Base Earn-Out Period" shall have the meaning set forth in Section 2.3(a) hereof.

"Benefit Plans" shall have the meaning set forth in Section 4.13(a) hereof.

"Business Day" means any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York on which banking institutions located in such state are closed.

"Buyer" shall have the meaning set forth in the preamble.

"Buyer's Business" shall have the meaning set forth in Section 6.2 hereof.

"Buyer's Calculation" shall have the meaning set forth in Section 2.3(b) hereof.

"Cap" shall have the meaning set forth in the definition of "Gross Margin."

"Claims Notice" shall have the meaning set forth in Section 7.3 hereof.

"Closing Date Balance Sheet" shall have the meaning set forth in Section 2.2(a) hereof.

"Closing Payment" shall have the meaning set forth in Section 2.1 hereof.

"Code" shall have the meaning set forth in Section 4.19(f).

"Company" shall have the meaning set forth in the first recital hereof.

"Company's Group" shall have the meaning set forth in Section 4.13(c) hereof.

"Deductible" shall have the meaning set forth in Section 7.5(a) hereof.

"Deferred Amount" shall have the meaning set forth in Section 3.2(d) hereof.

"Deficiency" shall have the meaning set forth in Section 2.2(a) hereof.

"Earn-Out Payment" shall have the meaning set forth in Section 2.3(b) hereof.

"Employees" shall have the meaning set forth in Section 4.13(b) hereof.

"Environmental Claims" means all accusations, allegations, notices of violation, Liens, claims, demands, suits, or causes of action for any damage, including, without limitation, personal injury, property damage (including, without limitation, any depreciation or diminution of property values), lost use of property or consequential damages, based upon Environmental Laws or principles of common law relating to pollution or exposure to Hazardous Substances. By way of example only (and not by way of limitation), Environmental Claims include (i) actions alleging actual or threatened damages to natural resources and seeking recovery pursuant to Environmental Laws, (ii) claims for nuisance or its statutory equivalent, (iii) claims for the recovery of response costs, or administrative or judicial orders directly related to the performance of investigations, responses or remedial actions under any Environmental Law, (iv) requirements to implement "corrective action" pursuant to any order or permit issued pursuant to the Resource Conservation and Recovery Act, as amended, or similar provisions of applicable state law, (v) claims based upon Environmental Laws or principles of common law relating to pollution or exposure to Hazardous Substances for restitution, contribution, or indemnity, (vi) fines, penalties or liens of any kind against property based upon Environmental Laws or principles of common law relating to pollution or exposure to Hazardous Substances, (vii) claims based upon Environmental Laws or principles of common law relating to pollution or exposure to Hazardous Substances for injunctive relief or other

orders or notices of violation from federal, state or local agencies or courts and (viii) with regard to any present or former employees, claims relating to exposure to or injury from Hazardous Substances based upon principles of common law relating to pollution or exposure to Hazardous Substances.

"Environmental Laws" means all applicable federal, state, district and local laws, all rules or regulations promulgated thereunder, and all orders, consent orders or judgments issued, promulgated or entered pursuant thereto, relating to pollution or protection of the environment (including, without limitation, ambient air, surface water, ground water, land surface, or subsurface strata), including, without limitation, (i) laws relating to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, industrial materials, wastes or other hazardous or toxic substances into the environment and (ii) laws relating to the identification, generation, manufacture, processing, distribution, use, treatment, storage, disposal, recovery, transport or other handling of pollutants, contaminants, chemicals, industrial materials, wastes or other hazardous or toxic substances. Environmental Laws shall include, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), the Toxic Substances Control Act, as amended, the Hazardous Materials Transportation Act, as amended, the Resource Conservation and Recovery Act, as amended ("RCRA"), the Clean Water Act, as amended, the Safe Drinking Water Act, as amended, the Clean Air Act, as amended, the Atomic Energy Act of 1954, as amended, the Occupational Safety and Health Act, as amended, and all analogous laws promulgated or issued by any state or other governmental authority.

"Environmental Reports" means any and all written analyses, summaries or explanations, in the possession or control of the Company, of (a) the condition of the environment on or about any Leased Property or (b) the Company's compliance with Environmental Laws.

"ERISA" means the Employee Retirement and Income Security Act of 1974, as amended.

"Excess Shortfall" shall have the meaning set forth in Section 2.2(a) hereof.

"First-Year Bonus Amount" shall have the meaning set forth in Section 2.3(a) hereof.

"First-Year Bonus Payment Date" shall have the meaning set forth in Section 2.3(b) hereof.

"First-Year Bonus Period" shall have the meaning set forth in Section 2.3(a) hereof.

"GAAP" shall mean generally accepted accounting principles in the United States.

"Governmental Authority" means any domestic or foreign administrative or regulatory agency, bureau, board, commission, officer, authority, department or other governmental body or agency.

"Gross Margin" shall mean "gross margin" as defined by GAAP, and shall include all revenues in respect of the Company or any successor (by law or otherwise) to the Company's business for the relevant period, less:

(a) Costs of goods sold relating to such revenues for such period as determined by GAAP, which for clarification purposes includes the following expenses which are not meant to be an inclusive list of all costs of goods sold: (i) card implementation expenses, (ii) software development and database programming, storage and management expenses for customer specific projects, (iii) third party license fees for software resold to clients, (iv) commission payments to retailers, and (v) data rights fees. Notwithstanding the preceding sentence, it is not the intention of the parties to deduct expenses as costs of goods sold unless such expenses are costs of goods sold in accordance with GAAP. Based on the Company's current operations, Sellers agree that the expenses in items (i) through (v) above are costs of goods sold in accordance with GAAP.

(b) Direct selling, advertising and marketing expenses, salaries of direct full-time Company sales personnel and their related direct expenses (excluding compensation paid to Fireman and Raider and any related direct expenses), direct sales public relations expenses, direct sales professional services expenses, direct sales trade show expenses and direct sales presentation materials expenses. These expenses are direct Company expenses without allocation or mark-up from Buyer or its Affiliates and will not include any sales expense (including sales, travel, commission or other expenses) for Buyer, its Affiliates or their respective employees, notwithstanding the fact that it is intended that the Company will utilize the sales personnel of Buyer and its Affiliates after the date hereof.

(c) All investments by Buyer in the Company in the relevant period, which shall not include (i) amounts invested in the Company to fund the Working Capital deficiency reflected on the Closing Date Balance Sheet, (ii) the first \$1.5 million invested by Buyer following the date hereof (the "Cap"), and (iii) and any amount paid in respect of the Raider Bonus. For capital expenses in excess of the Cap, related depreciation expenses shall be included in the calculation of Gross Margin and such expenses shall be (A) based on reasonable estimates of the useful life of the relevant assets, and (B) accounted for in accordance with GAAP. Investments in respect of non-capital assets in excess of the Cap will be included in the calculation of Gross Margin as a dollar for dollar basis. For purposes of applying investments in the relevant period toward the Cap, investments in respect of non-capital assets shall be included first.

"Hazardous Substances" means all pollutants, contaminants, chemicals, wastes, and any other carcinogenic, ignitable, corrosive, reactive, toxic or otherwise hazardous substances or materials (whether solids, liquids or gases) subject to regulation, control or remediation under Environmental Laws. By way of example only, the term Hazardous Substances includes petroleum,



urea formaldehyde, flammable, explosive and radioactive materials, PCBs, pesticides, herbicides, asbestos, sludge, slag, acids, metals, solvents and waste waters.

"Indemnified Party" shall have the meaning set forth in Section 7.3 hereof.

"Indemnitor" shall have the meaning set forth in Section 7.3 hereof.

"Intellectual Property" shall have the meaning set forth in Section 4.17(a) hereof.

"Interim Balance Sheet" shall have the meaning set forth in Section 4.6(a)(ii) hereof.

"Leases" shall have the meaning set forth in Section 4.9 hereof.

"Leased Property" shall have the meaning set forth in Section 4.9 hereof.

"Liabilities" shall have the meaning set forth in Section 4.7 hereof.

"Licenses" shall have the meaning set forth in Section 4.12 hereof.

"Liens" shall have the meaning set forth in Section 4.10 hereof.

"Losses" shall have the meaning set forth in Section 7.1 hereof.

"Material Adverse Effect" shall have the meaning set forth in Section 4.1 hereof.

"Non-Compete Payment" shall have the meaning set forth in Section 2.1 hereof.

"Notice of Disagreement" shall have the meaning set forth in Section 2.2(b) hereof.

"Participate In" shall mean to engage or participate, directly or indirectly, in any capacity whatsoever, whether compensated or not, for his or her own benefit or for, with or through any other person, firm, corporation or other entity, in the ownership, management, operation or control of, or to be connected as a director, officer, employee, partner, proprietor, consultant, principal, agent, shareholder, investor, independent contractor or otherwise with, or acquiesce in the use of his or her name in connection with the business of, any other person, firm, corporation or other entity; *provided*, however, that ownership of not more than 1% of a publicly traded entity shall be excluded from this definition.



"Permitted Liens" means liens or other encumbrances securing taxes, assessments, governmental charges or levies, or the claims of materialmen, carriers, landlords and like persons, all of which are not yet due and payable or are being contested in good faith.

"Plans, contracts and arrangements" shall have the meaning set forth in Section 4.13(a)(ii).

"Prime Rate" shall mean the prime rate of interest as published in *The Wall Street Journal*.

"Principal Sellers" shall have the meaning set forth in the preamble.

"Proceeding" shall have the meaning set forth in Section 4.14 hereof.

"Proprietary Software" shall have the meaning set forth in Section 4.16 hereof.

"Purchase Price" shall have the meaning set forth in Section 2.1 hereof.

"Raider Bonus" shall have the meaning set forth in Section 2.2(c) hereof.

"Raider Receivable" shall have the meaning set forth in Section 2.2(c) hereof.

"Records" shall have the meaning set forth in Section 4.27 hereof.

"Reserve" shall have the meaning set forth in Section 4.23 hereof.

"Seller" and "Sellers" shall have the meaning set forth in the preamble hereto.

"Second-Year Bonus Amount" shall have the meaning set forth in Section 2.3(a) hereof.

"Second-Year Bonus Payment Date" shall have the meaning set forth in Section 2.3(b) hereof.

"Second-Year Bonus Period" shall have the meaning set forth in Section 2.3(a) hereof.

"Shares" shall have the meaning set forth in the third recital hereto.

"Software" shall have the meaning set forth in Section 4.16(a) hereof.

"Taxes" shall have the meaning set forth in Section 4.19(a).

"Tax Returns" shall have the meaning set forth in Section 4.19(a).

"Working Capital" shall mean the Company's total current assets, less the Company's total current liabilities reflected on the Closing Date Balance Sheet prepared in accordance with GAAP; *provided*, however, that (i) the cancellation or write-off of the Raider Receivable shall not be included in the calculation of Working Capital, (ii) an amount equal to fifty percent (50%) of the Raider Bonus shall be included in the calculation of Working Capital, (iii) any income tax refund owing to the Company arising from the carry back of the 1998 operating loss to the 1997 tax year shall be included in the calculation of Working Capital, and (iv) no amount in respect of deferred tax benefit shall be included in the calculation of Working Capital.

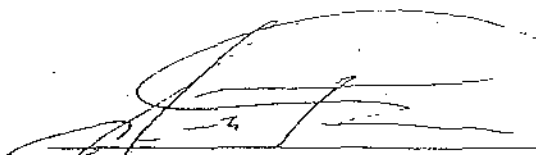
"Year 2000 Compliant" shall have the meaning set forth in Section 4.26 hereof.

8.11 Interpretation. Article titles, headings to sections and any table of contents are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation hereof. The Schedules referred to herein shall be construed with and as an integral part of this Agreement to the same extent as if they were set forth verbatim herein. As used herein, "include," "includes" and "including" are deemed to be followed by "without limitation" whether or not they are in fact followed by such words or words of like import; the singular includes the plural and vice versa; references to any agreement or other document are to such agreement or document as amended and supplemented from time to time.

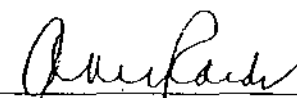
8.12 Arrangements Among Sellers. Each of the Sellers and the Buyer acknowledge and agree that no provision set forth in this Agreement shall impact or have any effect upon any agreement, arrangement or understanding among any two or more of the Sellers with respect to the

allocation of, and contribution arrangements with respect to, the relative rights, risks and responsibilities (including without limitation indemnification obligations and the obligation to repay the Shortfall, if any) among the Sellers.

IN WITNESS WHEREOF, the undersigned have executed this Stock Purchase Agreement  
as of the date first above written.

  
\_\_\_\_\_  
**ROBERT FIREMAN**

Address: 241 Perkins St. #D-104  
Jamaica Plains, MA 02130

  
\_\_\_\_\_  
**ANN RAIDER**

Address: 46 Ivy Road  
Wellesley, MA 02181

\_\_\_\_\_  
**CURTIS R. SMITH**

Address: 9 Wingate Road  
Wellesley, MA 02181

\_\_\_\_\_  
**JOHN H. BOYLES**

Address: 39 Westcott Road  
Harvard, MA 01451

**NEWS AMERICA MARKETING IN-STORE,  
INC.**

By: \_\_\_\_\_  
Name: David DeVoe, Jr.  
Title: Executive Vice President

**NAM04621  
Confidential**

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as of the date first above written.

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Antes P. Smith

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*John H. Boyles*  
JOHN H. BOYLES

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Wellesley, MA 02181

**JOHN H. BOYLES**

Address: 39 Westcott Road  
Harvard, MA 01451

**NEWS AMERICA MARKETING IN-STORE,  
INC.**

By: 

Name: David DeVoe, Jr.

Title: Executive Vice President

NAM04623  
Confidential

**CCMI  
DISCLOSURE MEMORANDUM  
TO  
STOCK PURCHASE AGREEMENT  
AS OF AUGUST 13, 1999**

The capitalized terms used in this Disclosure Memorandum, unless otherwise defined herein, have the meaning specified in the Agreement. For convenience, disclosures under one section or a subsection may be cross-referenced to one or more other sections or subsections of this Disclosure Memorandum. If a matter is disclosed in the Disclosure Memorandum, it shall be deemed to have been disclosed with respect to all Sections of the Agreement for which the disclosure satisfies the requirements for such Section, and its relevance is evident from the disclosure.

**CCMI  
SCHEDULE 2.1**

**PURCHASE PRICE**

With regard to Section 2.1, the following are instructions for the disbursement of the Purchase Price.

Name	Wire Instructions	Proportionate Share
Robert N. Fireman	Fleet Bank, ABA #011000138 for further credit to Robert N. Fireman, 165 Wood Road, Braintree, MA 02184, Account No. 93744 84119	\$1,380,000
Ann M. Raider	Fleet Bank, ABA#011000138, Credit to Ann M. Raider, 46 Ivy Road, Wellesley, MA 02181, Account No. 02149 01526	\$920,000
Curtis R Smith	U.S. Trust ABA#011001331 for further credit to Curtis R. Smith, Anne B. Smith, 9 Wingate Road, Wellesley, MA 02181 Account No. 001 1544137	\$400,000
John H. Boyles	BankBoston ABA#011000390 for further credit to John H. Boyles, 39 Westcott Road, Harvard, MA 01451, Account number 83034260	\$100,000
<b>TOTAL CLOSING PAYMENTS:</b>		<b><u>\$2,800,000</u></b>



CCMI  
SCHEDULE 2.3(b)

PAYMENT OF EARN-OUT AMOUNT

With regard to Section 2.3(b), the following are instructions for the disbursement of each Earn-Out Payment:

<u>Name</u>	<u>Wire Instructions*</u>	<u>Proportionate Share</u>
Robert N. Fireman	Same as 2.1	60%
Ann M. Raider	Same as 2.1	40%
		<u>100%.</u>

\*Unless any Seller notifies Buyer of a change in wire instructions thirty (30) days prior to payment of each Earn-Out Payment.

CCMI  
SCHEDULE 4.3

FREEDOM TO CONTRACT

In connection with this transaction, immediately prior to closing, the following documents and agreements will have been terminated, and all responsibilities, rights and liabilities thereunder will be waived:

Registration Rights Agreement between the Company, Curtis R. Smith, and John H. Boyles, dated as of February 11, 1998;

Stock Purchase Agreement among the Company and Curtis R. Smith, John H. Boyles, Robert N. Fireman, and Ann M. Raider, dated as of February 11, 1998;

Stockholders' Agreement, dated as of February 11, 1998, by and among the Company, Curtis R. Smith, John H. Boyles, Robert N. Fireman, and Ann M. Raider;

The Stock Pledge Agreement between the Company and Ann M. Raider, dated as of February 1998;

Promissory Note between the Company and Ann M. Raider; and

The Company's Employee Stock Option Plan, and the outstanding common stock options granted under the plan to employees William Adam and Robert M. Coughlin, in the amounts of 30,000 and 10,000 respectively, for a total of 40,000 options.

In connection with this transaction, immediately prior to closing, all responsibilities, rights, and liabilities of the Company under the following certificate will have been waived by the holders of all issued and outstanding shares of preferred stock:

Certificate of Designations, Preferences and Rights of a Series of Preferred Stock, dated as of February 11, 1998.

The Company has received a consent from Fleet Bank with regard to the outstanding loan, pursuant to which the bank has waived the acceleration clause and has released its first lien on the business assets of the Company.

CCMI  
SCHEDULE 4.4

TITLE TO SHARES

With regard to Section 4.4, the following lists the name of each Seller, their respective shares of stock and the percentage interest in the Company's capital stock.

<u>Name</u>	<u>Type</u>	<u>Shares</u>	<u>Percent Outstanding</u>
Curtis R. Smith	Preferred	248,000	80%
John H. Boyles	Preferred	<u>62,000</u>	<u>20%</u>
		<u>310,000</u>	100%

<u>Name</u>	<u>Type</u>	<u>Shares</u>	<u>Percent Outstanding</u>
Robert N. Fireman	Common	2,100,000	60%
Ann M. Raider	Common	<u>1,400,000</u>	<u>40%</u>
		<u>3,500,000</u>	100%

In connection with this transaction, immediately prior to closing, Curtis R. Smith and John H. Boyles will have contributed their 228,429 and 83,571 shares of common stock, respectively, to the Company as a capital contribution for no consideration.

See also Schedule 4.3 hereto.

**CCMI**  
**SCHEDULE 4.5**

**CAPITALIZATION, SUBSIDIARIES**

(a) With regard to Section 4.5, the following lists the total authorized capital stock of the Company:

<u>Type</u>	<u>Authorized</u>
Preferred	1,000,000
Common	5,000,000

In connection with this transaction, immediately prior to closing, Curtis R. Smith and John H. Boyles will have contributed their 228,429 and 83,571 shares of common stock, respectively, to the Company as a capital contribution for no consideration.

(b)(ii) Preferred stock is convertible. See also Schedule 4.3 hereto.

(b)(iii) See Schedule 4.3 hereto.

**CCMI  
SCHEDULE 4.6**

**FINANCIAL STATEMENTS**

Attached with regard to Section 4.6 are true and complete copies of financial statements of the Company.

4.6(a)(i) a balance sheet of the company as of December 31, 1998; statements of income, cash flows and changes in stockholders' equity for the fiscal year then ended.

4.6(a)(ii) Interim Balance Sheet as of June 30, 1999.

**CONSUMER CARD MARKETING, INC.**  
**BALANCE SHEET**  
**FOR THE PERIOD ENDED DECEMBER 31, 1998**

**ASSETS**

Current Assets	
Cash	\$ 784,209.19
Receivables	
Accounts Receivable	508,697.16
Suspense	404.70
Prepaid Freight Receivable	6,562.41
Income Tax Refund	<u>71,272.00</u>
Total Receivables	<u>586,936.27</u>
Total Current Assets	1,371,145.5
Property, Plant & Equipment	444,208.50
Accumulated Depreciation	<u>(174,992.05)</u>
Net Property, Plant & Equipment	269,216.45
Other Assets	
Notes Receivable Stockholder	185,416.09
Prepaid Expenses	<u>112,496.14</u>
Total Other Assets	<u>297,912.23</u>
TOTAL ASSETS	<u>\$ 1,938,274.14</u>

**CONFIDENTIAL INFORMATION**

**CONSUMER CARD MARKETING, INC.**  
**BALANCE SHEET**  
**FOR THE PERIOD ENDED DECEMBER 31, 1998**

**LIABILITIES & EQUITY**

Current Liabilities	
Accounts Payable	\$ 795,054.30
Accrued Payroll	41,503.76
Accrued Expenses	125,053.98
Deferred Revenue	270,420.00
Payroll Taxes Payable	2,188.72
State Withholding Taxes	9,930.79
FICA/Medicare Payable	4,881.24
Sales Tax Payable	2,718.63
Current Portion Long Term Debt	<u>19,881.53</u>
Total Current Liabilities	1,271,632.95
Long Term Liabilities	
Notes Payable Bank	35,416.89
Notes Payable Chase	<u>10,353.47</u>
Total Long Term Liabilities	<u>45,770.36</u>
Total Liabilities	1,317,403.31
Equity	
Preferred Stock	3,100.00
Common Stock	4,120.00
Add'l Paid in Capital	1,059,717.82
Retained Earnings	(277,000.56)
Current Year's Income/Loss	<u>(169,066.43)</u>
Total Equity	<u>620,870.83</u>
TOTAL LIABILITIES & EQUITY	<u>\$ 1,938,274.14</u>

**CONFIDENTIAL INFORMATION**

**CONSUMER CARD MARKETING, INC.**  
**INCOME STATEMENT**  
**FOR THE YEAR ENDED DECEMBER 31, 1998**

	<u>TOTAL</u>	<u>%</u>
GROSS REVENUE		
BUILD THE CUSTOMER DATABASE	\$ 2,422,766	64.8%
DATA BASE MANAGEMENT	1,247,118	33.3%
DATA BASE MARKETING/OTHER	71,773	1.9%
TOTAL GROSS REVENUE	<u>3,741,657</u>	<u>100.0%</u>
COST OF SALES		
BUILD THE CUSTOMER DATABASE	1,543,934	41.3%
DATA BASE MANAGEMENT	217,069	5.8%
TOTAL COST OF SALES	<u>1,761,003</u>	<u>47.1%</u>
GROSS PROFIT	<u>1,980,654</u>	52.9%
OPERATING EXPENSES		
SALARIES & WAGES	1,089,685	29.1%
PAYROLL TAXES	79,276	2.1%
RENT/COMMON AREA	83,431	2.2%
TELEPHONE	50,023	1.3%
POSTAGE & DELIVERY	8,660	0.2%
OFFICE EXPENSES	49,779	1.3%
LEASED EQUIPMENT	4,984	0.1%
CONSULTING FEES	274,171	7.3%
OUTSIDE SERVICES	49,906	1.3%
TRAVEL & ENTERTAINMENT	146,127	3.9%
TRADE SHOWS/CONFERENCES	32,052	0.9%
PRESENTATION MATERIALS	10,428	0.3%
ADVERTISING	17,261	0.5%
PROMOTION EXPENSES	85,094	2.3%
DUES & SUBSCRIPTIONS	8,054	0.2%
PROFESSIONAL FEES	8,795	0.2%
DEPRECIATION & AMORTIZATION	81,791	2.2%
UTILITIES	13,954	0.4%
RECRUITMENT COSTS	39,600	1.1%
INSURANCE	53,326	1.4%
BAD DEBT EXPENSE	44,315	1.2%
OTHER	18,085	0.5%
TOTAL OPERATING EXPENSES	<u>2,248,797</u>	<u>60.1%</u>
NET OPERATING INCOME	(268,143)	-7.2%
OTHER INCOME (EXPENSES)		
NET INTEREST INCOME (EXPENSE)	27,805	0.7%
FEDERAL INCOME TAX PROVISION	71,272	1.9%
INCOME (LOSS) BEFORE TAXES	<u>\$ (169,066)</u>	<u>-4.5%</u>

**CONFIDENTIAL INFORMATION**



**CONSUMER CARD MARKETING, INC.**  
**STATEMENT OF CASH FLOWS**  
**FOR THE YEAR ENDED DECEMBER 31, 1998**

<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>	
NET INCOME (LOSS)	\$ (169,066)
ADJUSTMENTS TO RECONCILED NET INCOME (LOSS) TO NET CASH USED BY OPERATING ACTIVITIES:	
DEPRECIATION AND AMORTIZATION	81,791
(INCREASE) DECREASE IN ACCOUNTS RECEIVABLE	354,141
(INCREASE) DECREASE IN INCOME TAX REFUND	(71,272)
DECREASE (INCREASE) IN PREPAID EXPENSES	111,564
INCREASE (DECREASE) IN ACCOUNTS PAYABLE	(392,743)
INCREASE (DECREASE) IN PAYROLL TAXES PAYABLE	(3,363)
(DECREASE) INCREASE IN DEFERRED INCOME	(63,355)
INCREASE (DECREASE) IN INCOME TAXES PAYABLE	(105,498)
INCREASE (DECREASE) IN OTHER CURRENT LIABILITIES	2,719
INCREASE (DECREASE) IN ACCRUED EXPENSES	<u>(247,299)</u>
NET CASH PROVIDED BY OPERATIONS	<u>(502,381)</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>	
PURCHASE OF PROPERTY AND EQUIPMENT	(188,993)
SALE OF COMPANY STOCK	<u>974,799</u>
NET CASH USED BY INVESTING ACTIVITIES	<u>785,806</u>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>	
PROCEEDS OF NOTES PAYABLE	(3,254)
PAYMENT OF NOTES PAYABLE STOCKHOLDER	(138,282)
PAYMENT OF NOTES PAYABLE	<u>(519,838)</u>
NET CASH PROVIDED (USED) BY FINANCING ACTIVITIES	<u>(661,374)</u>
NET INCREASE IN CASH AND CASH EQUIVALENTS	(377,949)
CASH AND CASH EQUIVALENTS AT BEGINNING OF PERIOD	<u>1,162,158</u>
CASH AND CASH EQUIVALENTS AT END OF PERIOD	<u>\$ 784,209</u>

**CONSUMER CARD MARKETING, INC.**  
**BALANCE SHEET**  
**FOR THE SIX MONTHS ENDED JUNE 30, 1999**

**ASSETS**

Current Assets	
Cash	\$ 71,533.92
Receivables	
Accounts Receivable	538,885.91
Suspense	8,675.41
Deferred Tax Benefit	71,845.00
Current Prepaids	36,906.94
Income Tax Refund	71,272.00
Total Receivables	<u>727,585.26</u>
Total Current Assets	799,119.18
Property, Plant & Equipment	452,905.94
Accumulated Depreciation	<u>(220,566.55)</u>
Net Property, Plant & Equipment	232,339.39
Other Assets	
Notes Receivable Stockholder	181,524.00
Prepaid Expenses	250,182.35
Total Other Assets	<u>431,706.35</u>
TOTAL ASSETS	<u>\$ 1,463,164.92</u>

**CONFIDENTIAL INFORMATION**

**CONSUMER CARD MARKETING, INC.**  
**BALANCE SHEET**  
**FOR THE SIX MONTHS ENDED JUNE 30, 1999**

**LIABILITIES & EQUITY**

**Current Liabilities**

Accounts Payable	\$ 367,388.92
Accrued Payroll	35,907.68
Accrued Expenses	261,142.39
Deferred Revenue	146,268.88
Postage Escrow	15,896.41
Payroll Taxes Payable	2,423.67
Sales Tax Payable	0.00
Current Portion Long Term Debt	<u>20,028.50</u>

Total Current Liabilities 849,056.45

**Long Term Liabilities**

Notes Payable Bank	26,916.93
Notes Payable Chase	<u>9,158.37</u>

Total Long Term Liabilities 36,075.30

Total Liabilities 885,131.75

**Equity**

Preferred Stock	3,100.00
Common Stock	4,120.00
Add'l Paid in Capital	1,059,717.82
Retained Earnings	(446,066.99)
Current Year's Income/Loss	<u>(42,837.66)</u>

Total Equity 578,033.17

**TOTAL LIABILITIES & EQUITY** **\$ 1,463,164.92**

**CONFIDENTIAL INFORMATION**

**CCMI  
SCHEDULE 4.7**

**ABSENCE OF UNDISCLOSED LIABILITIES**

With regard to Section 4.7, the following list represents undisclosed liabilities:

Accrued vacation time  
Additional costs related to this stock purchase transaction.

Also see Section 4.14.

In connection with this transaction immediately prior to closing, the following liabilities will be waived:

Accrued Dividends Preferred Stock  
Additional Payment to initial investors for legal work.

**CCMI  
SCHEDULE 4.8**

**NO MATERIAL ADVERSE CHANGE**

None.

**CCMI  
SCHEDULE 4.9**

**REAL ESTATE**

The Company's Corporate Headquarters consists of 8,000± square feet of office space located at 165 Wood Road, Braintree, MA 02184, leased by the Company from Harry Fireman, pursuant to an Indenture of Lease dated as of January 2, 1996, and amended by an Extension Agreement dated as of December 15, 1998, and by an Amendment of Lease dated as of July 14, 1999.

**CCMI  
SCHEDULE 4.10**

**TITLE TO AND CONDITION OF ASSETS, ENCUMBRANCES, ETC.**

With regard to Section 4.10, the following lists assets that are the personal furniture and fixtures of Robert N. Fireman and Ann M. Raider:

Pictures in offices  
Couches  
Desk sets in Bob's, Ann's, Bill's, Barry's, Michael's, Susan's offices  
Vase  
All conference tables and chairs  
Reception area chairs  
Steelcase sectionals  
All bookshelves  
Telephone system

All of the above assets, except for the personalty and desks sets of Robert Fireman and Ann Raider, that are used for the operations of the Company may be used by the Company consistently with past practice.

The Company has received a consent from Fleet Bank with regard to the outstanding loan, pursuant to which the bank has waived the acceleration clause and has released its first lien on the business assets of the Company.

From time to time, the Company has in its possession computer equipment and peripherals belonging to its customers for purposes of installing programs and or integration testing. Currently, the Company has in its possession the following:

IBM AS400  
Digital Alpha Server

CCMI  
SCHEDULE 4.11

CONTRACTS AND COMMITMENTS

(i)(A) Obligation of the Company:

All Recurring Accounts Payable  
Such as telephone, utilities, equipment leases etc.  
TimeOut Devices, Inc.  
Ockham's Razor  
Hyperion (Arbor)  
NACDS  
Polk  
Arthur Blank  
Century Mailing  
Expérian  
Figel, Inc.  
Decision Support Technologies (DST)  
SSI  
Estate of Harry Fireman  
Personix  
AT&T Financial Lease  
Fleet Equipment Lease  
Fleet Loan  
Fleet ancillary documents  
Chase Auto Loan  
ATT Equipment Lease Financing  
Non-monetary Confidentiality Agreements which have been delivered to Buyer.

Obligations to the Company:

\*Sullivan's  
\*Blue Square  
\*Nash Finch  
\*Coborn's  
\*Star Market  
\*Wild Oats  
\*Wegmans  
\*Jitney Jungle  
\*RMG  
\*Duane Reade  
\*Lewis Drug  
\*May's Drug Stores, Inc.  
\*\*Alberto Culver  
\*\*Fuji Film  
\*\*L' Eggs Products  
\*\*\*Decision Support Technologies (DST)  
\*\*\*\*Ockham's Razor  
\*\*\*\*TimeOut Devices, Inc.

- \* Retail Clients
- \*\* Manufacturer Clients
- \*\*\* Contract Software Developer obligated to complete certain software modules to receive final payments.
- \*\*\*\* Current CCMI software contractors.

(i)(B) None.

(i)(C) See also Schedule 4.3 hereto.



**CCMI  
SCHEDULE 4.12**

**LICENSES AND PERMITS**

None.

CCMI  
SCHEDULE 4.13

EMPLOYEE MATTERS

(a)(i) The Company has or currently maintains or contributes to:

Principle Financial (health insurance plan)  
Blue Cross/Blue Shield (health insurance)  
Guardian Insurance (long and short term disability)  
Phoenix Insurance (life insurance)  
The Company's 401K Plan  
Section 125 Benefit Plan. (pre tax health insurance deduction)

(a)(ii) (A) None.

(B) None.

(C) At the Company's discretion, all current employees are eligible to participate in a bonus or other incentive plan based in part on the Company's and the employee's performance.

The Company has adopted an Employee Stock Option Plan under which options have been granted. The following options which were outstanding under the plan, will have been terminated prior to the closing of this transaction:

<u>Plan Employee</u>	<u>Type</u>	<u>Quantity</u>
William Adam	Common	30,000
Robert M. Coughlin	Common	<u>10,000</u>
Total Options		<u>40,000</u>

(D) All eligible employees are able to participate in the Company-provided health plan, long and short-term disability insurance, life insurance, vacation policy, sick time, 401K Plan, and holiday time.

(E) None.

(F) The Company has confidentiality agreements that include a non-compete clause with the following current employees:

Adam, William	Adam, Elizabeth	Coughlin, Robert
Bowker, Christine	Clapp, H.W.	Crowther, Jonathan
Geswell, Linda	Hoefl, Christine	Hughes, Michael
Hill, Reva	Jorress, Craig	McAndrew, Kathy
McManama, Michael	Pappas, Charles	Robinson, Barry
Young, Susan		

CCMI  
SCHEDULE 4.13

EMPLOYEE MATTERS (CONTINUED)

(G) None.

(c) None.

(e)(i)

Name	Annual Salary as of 7/1/99
ADAM, WILLIAM	85,000.00
ADAM, ELIZABETH	50,000.00
BOWKER, CHRISTINE	50,000.00
CLAPP, H.W.	101,000.00
COUGHLIN, ROBERT	60,000.00
CROWTHER, JONATHAN	30,000.00
FIREMAN, ROBERT	153,000.00
GESWELL, LINDA	42,000.00
HILL, REVA	33,000.00
HOEFT, CHRIS	36,000.00
MCANDREW, KATHLEEN	27,500.00
MCMANAMA, MICHAEL	105,000.00
PAPPAS, CHARLES	50,000.00
RAIDER, ANN	153,000.00
ROBINSON, BARRY	98,400.00
YOUNG, SUSAN	68,250.00
HUGHES, MICHAEL	44,000.00
JOESS, CRAIG	36,000.00

(ii) None.

**CCMI  
SCHEDULE 4.13**

**EMPLOYEE MATTERS (CONTINUED)**

(iii) The Company tracks vacation, holiday, and sick pay for each employee, but has not accrued for it on the balance sheet.

(iv)	Adam, William	Joress, Craig
	Bowker, Chris	Pappas, Charles
	Clapp, H.W.	Raider, Ann
	Crowther, Jonathan	Geswell, Linda
	Fireman, Robert	Hughes, Michael.
	Hoeft, Chris	

**CCMI  
SCHEDULE 4.14**

**LITIGATION**

Interpros, dispute regarding recruiting fees.

Business Software Alliance, software review.

Credit Verification Corporation, patent infringement.

Ronald Lunde, dispute regarding consulting fees. Mr. Lunde a consultant, whose arrangement was terminated in October of 1998, has recently made a claim that he is owed additional fees in the range of \$27,000 to \$64,000, which the company vigorously disputes.

A disputed claim for an old matter relative to a suit for a telephone consultant in 1992 or 1993 for approximately \$6,000. When the Company relocated to its current location the file was misplaced. The Company has not received any information regarding this claim for at least the last five years.

**CCMI  
SCHEDULE 4.15(b)**

**COMPLIANCE WITH LAW**

None.

**CCMI  
SCHEDULE 4.16**

**SOFTWARE AND INFORMATION SYSTEMS**

**(a)(i) Customer Information System (CIS)**

Marketing Analysis System (MAS)

Campaign Manager (CM)

Promotional Analysis (PA)

Instore Promotional Dispenser (IPD)

POS Interfaces

For licenses and rights see Decision Support Technologies, and Retailer System Agreements, which have been made available to Buyer.

**(a) (ii)**

Windows NT (Microsoft)	Group I (AccuMail)	MS SQL (Microsoft)	MS Windows 95 (Microsoft)
NT 4.0 Server (Microsoft)	Fox Pro (Microsoft)	McAfee Anti-Virus (McAfee.com Corp.)	Adobe Illustrator (Adobe)
MS Office 97 (Microsoft)	Visio (Visio)	EudoraPro (Qualcomm)	Adobe Go Live (Adobe)
PC Anywhere (Symantec)	AltaVista Tunnel (Digital Compaq)	Great Plains Dynamic (GP)	Adobe Image Styler (Adobe)
Essbase (Hyperion)	Power Chute (APC)	Quark Express (QuarkXPress)	Adobe Image Ready (Adobe)
Brio (Brio)	Act! 3.0 (Symantec)	MS Windows 98 (Microsoft)	Oracle8 (Oracle)
Power Builder (Sybase)			

The Company cannot locate Certificates of Authenticity or original diskettes, for 15 user licenses for MS Office and 5 licenses for PC Anywhere. If the Company cannot locate these, it intends to purchase new licenses.

**(a)(iii) None.**

**(a)(iv) Ongoing Software Development – Continued building, upgrading and enhancement of CCMI CIS, MAS, Campaign Manager and Promotional Analysis Modules**

**NACDS Drug Store Project – Customized MAS for drug chain stores. Build warehouse for multiple drug chain store data.**

CCMI  
SCHEDULE 4.16

SOFTWARE AND INFORMATION SYSTEMS (CONTINUED)

Enhancements for Nash Finch members – Customized interfaces to balance store data; adding additional features.

Work for the above being performed by CCMI staff, Ockham's Razor, TimeOut Devices and DST.

(b)(i) None.

(b)(ii) Yes.

(b)(iii) Some employees may have gained access to source code prior to executing confidentiality and non-disclosure agreements. The Company does not believe this to be significant. All current employees have signed a Confidentiality Agreement and Non Disclosure Agreement with regard to the source code.

(b)(iv) Yes.

(b)(v) Yes.

(b)(vi) Yes.

(b)(vii) Yes except DST, a contract developer retained some minor rights as set forth in the DST Agreement.

(b)(viii) Yes.

(d) Fleet Bank's lien on the Company's assets will have been discharged prior to the closing of this transaction.

(e) Credit Verification Corporation (1996 Patent Claim); Business Software Alliance (claim for office software compliance).

(f) Certain companies have not renewed annual maintenance and support fees. As a result, there may be a question about their continued right to hold and use the software. These companies had old versions in object code, not source code.



CCMI  
SCHEDULE 4.17

INTELLECTUAL PROPERTY

Trademark: Company's Logo, which is the initials CCMI, with a UCC Bar Code underneath.

Copyright: Company's marketing materials describing the Company's experience, products and services.

- (a) None.
- (b) None.
- (c) None.
- (e) None

**CCMI  
SCHEDULE 4.18**

**TRADE SECRETS**

Company's customer list and customer prospect list.

CCMI  
SCHEDULE 4.19

TAX MATTERS

- (a) With regard to Section 4.19(a) the Company made no quarterly estimated Federal or State income tax payments during 1998 or 1999 because the amount of taxes due, if any, could not be reasonably determined.

The Company has not filed any sales or use tax returns or collected any sales tax for sales or services delivered outside of the Commonwealth of Massachusetts.

- (c) None.

(d)(i) During 1997, ADP did not deduct certain payroll taxes from the Company's bank account. ADP was notified. Employee wages and withholdings were reported correctly. These charges have been subsequently removed to accurately reflect payroll taxes due on the balance sheet.

**CCMI**  
**SCHEDULE 4.20**

**INSURANCE**

<u>Insurance Co.</u>	<u>Amt.</u>	<u>Type/ Risks Insured</u>	<u>Expires</u>	<u>Policy #</u>
Metropolitan Ins.	\$1,000,000	Term Life Robert N. Fireman	5/25/48	940550213P
United of Omaha	\$1,000,000	Term Life Robert N. Fireman	2/3/44	BU1050702
The Guardian	\$1,000,000	Term Life Ann M. Raider	6/23/47	3799957
The Guardian	\$1,500,000	Term Life Ann M. Raider		
Public Svs. Mut. Ins.	\$1,500,000	Workers Compensation	3/12/00	03-264408-99
Nat'l Grange Mut.	\$20,000	401K Crime Policy	none	F222545
Provident L&A Co.	\$5,000/M	Disability-Robert N. Fireman	9/6/23	0004253121
The Guardian Ins.	\$5,000/M	Disability Ann M. Raider	3/25/12	G-659118
Public Svs. Mu. Ins.	\$50,000	Business Pers. Prop.	9/10/99	00-74-328259
	\$1,000,000	General Liability		
	\$40,000	Computer Hardware		
	\$10,000	Computer Software		
	\$10,000	Computer Transit Coverage		
The Connecticut Indemnity Co.	\$22,000	Scheduled Property (Cover Fleet Leased Equip.)	3/4/00	SP-91-41-05

CCMI  
SCHEDULE 4.21

TRANSACTIONS WITH AFFILIATES

The Fireman family owns the building in which the Company's office is leased.

\$181,524.00 Promissory Note between the Company and Ann M. Raider which will have been forgiven by the Company prior to the closing of this transaction.

The Company owns a 1995 Saab financed with Chase Automotive Finance, which is being used by Ann M. Raider.

**CCMI  
SCHEDULE 4.22**

**ENVIRONMENTAL MATTERS**

None.

**CCMI  
SCHEDULE 4.23**

**ACCOUNTS RECEIVABLE**

Attached with regard to Section 4.23 is a list of Accounts Receivables as of June 30, 1999, including the aging thereof:

8/5/99 2:48:21 PM  
re: 8/5/99Consumer Card Marketing, Inc.  
SUMMARY HISTORICAL AGED TRIAL BALANCE  
Receivables ManagementPage: 1  
User ID: ROBERT

mer ID: First - Last  
 mer Class: First - Last  
 mer ID: First - Last  
 Territory: First - Last  
 Defined 1: First - Last  
 nt Type: All  
 mer Name: First - Last  
 : Zero Balance, No Activity, Fully Paid Documents, Multicurrency Info  
 r: by Customer ID  
 t: by Document Number

ZIP Code: First - Last  
 State: First - Last  
 Telephone: First - Last  
 Posting Date: First - 7/1/99  
 Short Name: First - Last  
 Aging Date: 7/1/99

Name	Account Type	0-30 Days	31 - 60 Days	61 - 90 Days	91 and Over
------	--------------	-----------	--------------	--------------	-------------

The Great Atlantic & Pacific Open Item

Defined 1: Salesperson: Territory:

Ms. Susan Hamilton (201) 930-8139 Ext. 0000  
Due Upon Receipt Totals: \$6,599.99 (\$0.01) \$0.00 \$0.00 \$6,600.00  
Unlimited

REN A.J. Biren & Company Open Item

Defined 1: Salesperson: Territory:

Due Upon Receipt (000) 000-0000 Ext. 0000  
Totals: \$1,593.84 \$1,593.84 \$0.00 \$0.00 \$0.00  
Unlimited

B lue Square - Isreal, Ltd. Open Item

Defined 1: Salesperson: Territory:

Mr. Daniel Moshaioff (011) 972-3928 Ext. 2420  
Due Upon Receipt Totals: \$3,567.99 \$0.00 \$0.00 \$0.00 \$3,567.99  
Unlimited

BRUNO'S INC. Open Item

Defined 1: Salesperson: Territory:

ROBERT COLE (205) 940-9400 Ext. 0000  
Due Upon Receipt Totals: \$52,260.00 \$52,260.00 \$0.00 \$0.00 \$0.00  
Unlimited

COBORN'S INC. Open Item

Defined 1: Salesperson: Territory:

TOM COBORN (205) 912-4639 Ext. 0000  
Due Upon Receipt Totals: \$9,545.43 \$6,623.61 \$0.00 \$4,672.22 (\$1,750.40)  
Unlimited

Conair Corporation Open Item

Defined 1: Salesperson: Territory:

Mr. Ronald T. Diamond ( ) Ext.  
Due Upon Receipt Totals: \$22,500.00 \$22,500.00 \$0.00 \$0.00 \$0.00  
Unlimited

FRY'S FOOD STORES OF ARIZONA Open Item

Defined 1: Salesperson: Territory:

Mr. Jim Nygren (000) 000-0000 Ext. 0000  
Due Upon Receipt Totals: \$87,395.88 \$30,837.99 \$23,431.69 \$33,126.20 \$0.00  
Unlimited

Fuji Photo Film USA, Inc Open Item

Defined 1: Salesperson: Territory:



Name	Account Type		0-30 Days	31 - 60 Days	61 - 90 Days	91 and Over
		Ext.				
Due Upon Receipt	( ) -	Totals:	\$22,500.00	\$22,500.00	\$0.00	\$0.00
Unlimited						
JITNEY JUNGLE STORE OF AMERICA	Open Item					
er-Defined 1:	Salesperson:	Territory:				
ct: MR. WILL STEPHENSON	(601) 346-2189	Ext. 0000				
Due Upon Receipt	Totals:	\$26,110.36	\$12,267.64	\$9,962.72	\$0.00	\$3,880.00
Unlimited						
THE KROGER COMPANY	Open Item					
er-Defined 1:	Salesperson:	Territory:				
ct: MR. RICH STERN	( ) -	Ext.				
Due Upon Receipt	Totals:	\$4,056.50	\$4,056.50	\$0.00	\$0.00	\$0.00
Unlimited						
L'eggs Products	Open Item					
er-Defined 1:	Salesperson:	Territory:				
ct: (336) 519-3359	Ext. 0000					
Due Upon Receipt	Totals:	\$25,000.00	\$25,000.00	\$0.00	\$0.00	\$0.00
Unlimited						
NASH FINCH COMPANY	Open Item					
er-Defined 1:	Salesperson:	Territory:				
ct: MS. PATTY DILL	(000) 000-0000	Ext. 0000				
Due Upon Receipt	Totals:	\$108,531.70	\$866.83	\$106,312.50	\$0.00	\$1,352.37
Unlimited						
NATURE'S FRESH NORTHWEST	Open Item					
er-Defined 1:	Salesperson:	Territory:				
ct: MR. SCOTT GRAY	(503) 670-6038	Ext. 1010				
Due Upon Receipt	Totals:	\$21,633.66	\$110.78	\$555.43	\$95.00	\$20,872.45
Unlimited						
Response Marketing Group	Open Item					
er-Defined 1:	Salesperson:	Territory:				
ct: (804) 968-7300	Ext. 0000					
Due Upon Receipt	Totals:	\$11,621.75	\$5,837.06	\$5,784.69	\$0.00	\$0.00
Unlimited						
SHAW'S SUPERMARKET, INC.	Open Item					
er-Defined 1:	Salesperson:	Territory:				
ct: MR. ALFRED RYAN	(508) 378-3020	Ext. 0000				
Due Upon Receipt	Totals:	\$1,649.52	\$1,649.52	\$0.00	\$0.00	\$0.00
Unlimited						
STAR MARKET COMPANY	Open Item					
er-Defined 1:	Salesperson:	Territory:				
ct: MR. MICHAEL SULLIVAN	(617) 528-2550	Ext. 2824				
Due Upon Receipt	Totals:	\$5,317.07	\$4,844.57	\$0.00	\$0.00	\$472.50
Unlimited						
SULLIVAN'S FOODS	Open Item					
er-Defined 1:	Salesperson:	Territory:				

8/5/99

SUMMARY HISTORICAL AGED TRIAL BALANCE  
Receivables Management

Page: 3

Name	Account Type	0-30 Days	31 - 60 Days	61 - 90 Days	91 and Over
MR. SCOTT SULLIVAN	Ext.				
Due Upon Receipt	Totals:	\$8,325.00	\$0.00	\$0.00	\$8,325.00
Unlimited					
L RETAIL Tactical Retailing Solutions Open Item					
r-Defined 1:	Salesperson:	Territory:			
	(860) 677-6975	Ext. 0000			
Due Upon Receipt	Totals:	\$5,168.09	\$5,168.09	\$0.00	\$0.00
Unlimited					
STOFFICE US POSTAL SERVICE	Open Item				
r-Defined 1:	Salesperson:	Territory:			
	( )	Ext.			
Due Upon Receipt	Totals:	\$1,082.50	\$232.50	\$0.00	\$0.00
Unlimited					
IS Wegmans	Open Item				
r-Defined 1:	Salesperson:	Territory:			
	(716) 328-2550	Ext. 0000			
Due Upon Receipt	Totals:	\$97,453.60	\$19,252.94	\$13,340.83	\$54,486.74
Unlimited					
D WILD OATS MARKETS, INC.	Open Item				
r-Defined 1:	Salesperson:	Territory:			
ct: MR. JAY ROBINSON	(303) 440-5220	Ext. 0000			
Due Upon Receipt	Totals:	\$16,973.03	\$3,973.03	\$0.00	\$13,000.00
Unlimited					
21 Customer(s)	Grand Totals:	\$538,885.91	\$219,574.89	\$159,387.86	\$113,705.16
					\$46,218.00

**CCMI  
SCHEDULE 4.25**

**SUPPLIERS AND CUSTOMERS**

With regard to Section 4.25, the following lists the ten largest customers and the ten largest suppliers of the Company by dollar volume of revenues for the year ended December 31, 1998:

**Customers**

Fry's  
Brunos/filed for bankruptcy  
Jitney Jungle  
Wild Oats/Halted Loyalty Program  
Nature's Fresh/Acquired by Wild Oats  
Nash Finch  
Lucky's Stores  
Delchamps/Acquired by Jitney Jungle  
Carlton Cards  
Star Markets

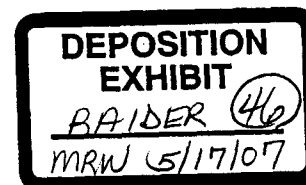
**Suppliers**

SSI  
Polk  
Personix  
DST  
TimeOut Devices  
Arthur Blank and Company  
Versatile Card Technology  
Ockham's Razor  
Direct Resources  
American Spirit Graphics

## **EXHIBIT 3**

FIREMAN/RAIDER  
NEWS AMERICA MARKETING  
EARN-OUT SUMMARY

	SUMMARY YEAR 1 9/30/00	SUMMARY YEAR 2 10/1/00-9/30/01	SUMMARY YEAR 3 10/1/01-9/30/02	SUMMARY YEAR 4 10/01/02-09/30/03	SUMMARY YEAR 5 10/1/03-9/30/04
GROSS MARGIN	\$1,740,172.00	\$1,550,372.00	\$1,632,368.00	\$466,247.00	\$1,042,946.00
BASE EARN-OUT	\$265,545.00	\$177,172.00	\$139,182.00	\$62,011.00	\$128,075.00
ALLOCATION OF BASE EARN OUT					
60% FIREMAN	\$159,327.00	\$106,303.00	\$83,509.00	\$37,207.00	\$76,845.00
40% RAIDER	\$106,218.00	\$70,869.00	\$55,673.00	\$24,804.00	\$51,230.00



## **EXHIBIT 4**

0524FIRE.txt

UNEDITED ROUGH TRANSCRIPT

1

1 Volume: I  
2 Pages: 1-  
3 Exhibits: 62-141  
4

5 UNITED STATES DISTRICT COURT  
6 FOR THE DISTRICT OF MASSACHUSETTS

7 Civil Action No. 05-1740 MLW

8 - - - - - x

9 ROBERT FIREMAN and ANN RAIDER,  
10 Plaintiffs,

11 v.

12 NEWS AMERICA MARKETING IN-STORE, INC.,  
13 Defendant.

14 - - - - - x

15  
16 DEPOSITION OF ROBERT N. FIREMAN

17 Thursday, May 24, 2007

18 10:08 a.m. to 6:32 p.m.

19 HOLLAND & KNIGHT, LLP

20 Ten St. James Avenue, 11th Floor

21 Boston, Massachusetts

22

23

24 Reporter: Marianne R. Wharram, CSR/RPR

JONES REPORTING COMPANY  
617-451-8900

UNEDITED ROUGH TRANSCRIPT

2

1 A P P E A R A N C E S

0524FIRE.txt

UNEDITED ROUGH TRANSCRIPT

181

1 A. No, there were adjustments against us. I  
2 believe that they were using the accounts  
3 receivable that were outstanding?

4 Q. Just --

5 A. No, I don't believe they were fair.

6 Q. They were always courteous to you, they  
7 being the NAM executives who you dealt with on your  
8 earn-out; isn't that right?

9 A. You mean it wasn't courteous?

10 Q. Yeah. They were courteous?

11 A. They just did what they wanted to do, they  
12 took the positions they wanted to take, and they  
13 were inflexible on the issues that were important  
14 to us. Did they yell at us? I don't remember any  
15 screaming sessions. Courteous? They politely blew  
16 a lot of money for themselves and us.

17 Q. Now, you never engaged an accountant to  
18 discuss disputed issues with NAM's accountant  
19 pursuant to the Stock Purchase Agreement's earn-out  
20 dispute resolution procedure?

21 A. Engage an accountant?

22 Q. Yes.

23 A. No.

24 Q. And of course, there was never a need to

JONES REPORTING COMPANY  
617-451-8900

UNEDITED ROUGH TRANSCRIPT

182

1 engage a third accountant to resolve any disputes



0524FIRE.txt

2 between the accountants, right?

3 A. Right. The issues were settled, but they  
4 weren't according to GAAP. I mean, if we worked  
5 according to GAAP --

6 Q. You've answered the question. And you  
7 never brought suit against NAM regarding any of the  
8 complaints which you expressed in your letters  
9 following the years one and two earn-out  
10 calculations?

11 A. I've already testified a different suit  
12 that wasn't served.

13 Q. But that was before the year one earn-out  
14 calculation, right?

15 A. Yes.

16 Q. Okay. So after the year one earn-out  
17 calculation, you never brought suit, right?

18 A. Until the present day.

19 Q. Until the present day?

20 A. Right.

21 Q. You never brought suit against NAM until  
22 after your five-year employment agreement was over,  
23 right?

24 MR. PETERS: Inconsistent with his

JONES REPORTING COMPANY  
617-451-8900

UNEDITED ROUGH TRANSCRIPT

183

1 testimony.

2 A. I didn't --

3 Q. Apart from the '99 suit, which was never  
4 served?

5 A. I testified Ann Raider had two kids in  
Page 162

0524FIRE.txt

6 college and we waited until she was out of harm's  
7 way.

8 Q. Okay. And you've retained every dollar  
9 paid you by NAM, correct?

10 A. I don't understand the question.

11 Q. You didn't offer to give back any of the  
12 money that NAM paid you?

13 A. No, I didn't give NAM back any money.

14 Q. If they would undo the deal?

15 A. Never was discussed.

16 Q. You personally never offered to give back  
17 what they received in stock -- received for your  
18 stock if they would undo the deal, just yes or no?

19 A. I would have done that in a heartbeat if  
20 they could undo the deal. They couldn't give me  
21 back what I gave them.

22 MR. PETERS: Just yes or no.

23 A. No.

24 Q. Okay. I'm going to show you a document

JONES REPORTING COMPANY  
617-451-8900

UNEDITED ROUGH TRANSCRIPT

184

1 marked Exhibit 80 and can you identify this  
2 document for us? Is this your handwriting? Hello?

3 MR. PETERS: He's reading.

4 MR. KATZ: Okay.

5 Q. Is this your handwriting?

6 A. Yes.

7 Q. Okay

8 A. I believe so.

## **EXHIBIT 5**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

_____	)	
ROBERT FIREMAN and ANN RAIDER,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CIVIL ACTION NO. 05-11740MLW
	)	
NEWS AMERICA MARKETING IN-STORE,	)	
INC.,	)	
	)	
Defendant.	)	
_____	)	

**ROBERT FIREMAN AND ANN RAIDER'S FIRST SET OF REQUESTS FOR  
PRODUCTION OF DOCUMENTS AND THINGS TO DEFENDANT**

Pursuant to Federal Rules of Civil Procedure 26 and 34, the plaintiffs, Robert Fireman ("Fireman") and Ann Raider ("Raider") hereby requests that Defendant News America Marketing In-Store, Inc. ("NAM") produce for inspection and copying the documents requested below. The production of documents requested herein shall take place at the offices of Todd & Weld LLP, 28 State Street, 31st Floor, Boston, Massachusetts, within the time permitted by Rule 34.

**INSTRUCTIONS**

1. In producing documents in response to this request, NAM is required to furnish all documents, including electronic media, in its possession, custody or control that are known or available to it, regardless of whether those documents are possessed by NAM, or by any agent, attorney, parent, subsidiary, representative, affiliate or employee. NAM must make a diligent search of its records and of other papers and materials in its possession or available to it or its attorneys or other representatives.

2. When responding to this request for production of documents, NAM is requested to respond in writing and state as to each of the requests:

(a) that there are documents responsive to the request, and that they will be produced;

(b) that there are documents responsive to the request, but that NAM refuses to produce them because of a claim of privilege or for some other reason; or

(c) that there are no documents responsive to the request.

3. If NAM asserts any privilege in responding to this request, specify in each instance the type of privilege asserted, specify the basis for the assertion, state all facts relied upon in support of the claim of privilege or related thereto and identify, to the fullest extent short of waiver, all communications and documents as to which NAM claims a privilege.

4. As to any document called for in this request which no longer exists, but which NAM is aware existed at one time, please identify such document(s) and, in addition, identify the last known location and the reason such document(s) is no longer in existence.

5. In the event NAM objects to any request set forth below on the basis of a contention that it is overbroad for any reason, please respond to that request as narrowed in such a way as to render it not overbroad and state the extent NAM have narrowed that request for purposes of the response.

6. In producing documents pursuant to this request, please indicate to which numbered request such document is responsive. If a document or any other item is produced pursuant to more than one request, please so designate.

7. The document requests contained herein shall be deemed to be continuing; that

is, NAM must supplement its response if it obtains any additional documents between the time the responses to these requests are served and the time of trial. Such additional responses shall be served and additional documents produced from time to time, but no later than fourteen (14) days after such additional documents are discovered, obtained or received.

8. Unless otherwise specified, the documents to be provided in response to the requests contained herein include any and all information that was generated or received or otherwise came into existence at any time prior to and including the date of responding.

#### **DEFINITIONS**

As used herein, the words and phrases set out below shall have the following meanings:

1. "Communication" means any correspondence, contact, discussion, or any other kind of written or oral exchange or transmittal of information (in the form of facts, ideas, inquiries, or otherwise) and any response thereto between two or more persons or entities, including, without limitation, all telephone conversations, face-to-face meetings or conversations, internal or external discussions, or exchanges of a document or documents, whether directly or through "cc" copying.

2. "Document" shall have the meaning set forth in Rule 34(a) of the Massachusetts Rules of Civil Procedure and shall therefore include, without limitation, any writing, recording, photograph, computer data base, or other item containing information of any kind or nature, however produced or reproduced, whether an original or a duplicate, whatever its origin or location, and regardless of the form in which such information exists or is maintained.

3. "Person" means any natural person or any legal or business entity.

4. A "representative" of a person means any officer, director, agent, employee, attorney, or other representative of such person.

5. An "affiliate" of any entity means any person who, directly or indirectly, controls, or is controlled by, or is under common control with such entity. The term "control" and its correlatives, as used above, means the possession, whether direct or indirect, or the power to direct or to cause the direction of the management and policies of a person, whether through ownership of an entity interest, by corporate position, by contract, or otherwise.

6. "Concerning" means relating to, referring to, describing, evidencing, or constituting.

7. "Robert Fireman" means Robert Fireman, any agent, employee, attorney or other representative of Robert Fireman.

8. "Ann Raider" means Ann Raider, any agent, employee, attorney, or other representative of Ann Raider.

9. "NAM" means News America Marketing In Store, its employees, agents, principals, subsidiaries, successors, shareholders, members, officers and directors.

10. Consumer Card Marketing, Inc. ("CCMI") means CCMI, its employees, agents, principals, subsidiaries, successors, shareholders, members, officers and directors.

11. SmartSource Direct means SmartSource Direct, its employees, agents, principals, subsidiaries, successors, shareholders, members, officers and directors.

12. SmartSource iGroup means SmartSource iGroup, its employees, agents, principals, subsidiaries, successors, shareholders, members, officers and directors.

13. "You" or "Your" means NAM.

**REQUESTS**

1. All documents which refer, reflect or relate to Consumer Card Marketing, Inc. ("CCMI").
2. All documents which refer, reflect or relate to SmartSource Direct from 1999 to 2004.
3. All documents which refer, reflect or relate to SmartSource iGroup from 1999 to 2004.
4. All documents which refer, reflect or relate to any business plans of CCMI.
5. All documents which refer, reflect or relate to any business plans prepared or reviewed prior to the acquisition of CCMI relating to the business of CCMI.
6. For the years 1999 to 2004, all documents which refer, reflect or relate to any annual business plans which relates, reflects or refers to the business of CCMI, SmartSource Direct or SmartSource iGroup.
7. All documents utilized, reviewed or prepared in connection with the preparation of the business plans sought by Request No. 6.
8. All documents which refer, reflect or relate to any due diligence performed on CCMI prior to the acquisition in 1999.
9. All documents which reflect communications between Raider and/or Fireman, on one hand, and NAM, on the other.
10. All documents which refer, reflect or relate to the August 13, 1999 Stock Purchase Agreement between NAM, Fireman and Raider. This request includes, but is not limited to pro formas, drafts, notes, memoranda, facsimile, electronic mail and both external and internal communications regarding the Stock Purchase Agreement.
11. All documents which refer, reflect or relate to the earn out component of the August 13, 1999 Stock Purchase Agreement. This request includes, but is not limited to, pro formas, calculations, draft calculations, memoranda, facsimile, spreadsheets, electronic mail, notes of communications, both internal and external communications.
12. All documents which refer, reflect or relate to the "Base Earn-Out Amount" component of the August 13, 1999 Stock Purchase Agreement. This



request includes, but is not limited to, pro formas, calculations, draft calculations, memoranda, facsimile, spreadsheets, electronic mail, notes of communications, both internal and external communications.

13. All documents utilized to calculate the Base Earn Out Amount at any time.
14. All documents which refer, reflect or relate to the "First-Year Bonus Amount" component of the August 13, 1999 Stock Purchase Agreement. This request includes, but is not limited to, pro formas, calculations, draft calculations, memoranda, facsimile, spreadsheets, electronic mail, notes of communications, both internal and external communications.
15. All documents utilized to calculate the First Year Bonus Amount at any time.
16. All documents which refer, reflect or relate to the "Second Year Bonus Amount" component of the August 13, 1999 Stock Purchase Agreement. This request includes, but is not limited to, pro formas, calculations, draft calculations, memoranda, facsimile, spreadsheets, electronic mail, notes of communications, both internal and external communications.
17. All document utilized to calculate the Second Year Bonus Amount at any time.
18. All documents which refer, reflect or relate to the "Third Year Bonus Amount" component of the August 13, 1999 Stock Purchase Agreement. This request includes, but is not limited to, pro formas, calculations, draft calculations, memoranda, facsimile, spreadsheets, electronic mail, notes of communications, both internal and external communications.
19. All document utilized to calculate the Third Year Bonus Amount at any time.
20. All documents which refer, reflect or relate to the "Fourth Year Bonus Amount" component of the August 13, 1999 Stock Purchase Agreement. This request includes, but is not limited to, pro formas, calculations, draft calculations, memoranda, facsimile, spreadsheets, electronic mail, notes of communications, both internal and external communications.
21. All document utilized to calculate the Fourth Year Bonus Amount at any time.
22. All documents which refer, reflect or relate to the "Fifth Year Bonus Amount" component of the August 13, 1999 Stock Purchase Agreement. This request includes, but is not limited to, pro formas, calculations, draft

calculations, memoranda, facsimile, spreadsheets, electronic mail, notes of communications, both internal and external communications.

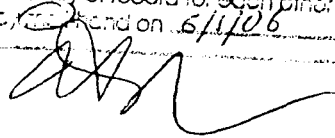
23. All document utilized to calculate the Fifth Year Bonus Amount at any time.
24. All documents which refer, reflect or relate to any budgets or projections relating to CCMI, including drafts thereof.
25. All NAME or News Corp. board of director's meeting minutes where CCMI, Smartsource Direct or SmartSource iGroup were discussed, mentioned or referenced.
26. Minutes or notes of any meeting of any NAM or News Corp. executive, manager or member of the finance or accounting department where Ann Raider, Robert Fireman, CCMI, Smartsource Direct or SmartSource iGroup were discussed, mentioned or referenced.
27. Materials generated or reviewed during any portion of any meeting where Ann Raider, Robert Fireman, CCMI, Smartsource Direct or SmartSource iGroup were discussed, mentioned or referenced.
28. All proposed or adopted organizational charts of CCMI, SmartSource Direct or SmartSource iGroup prepared at any time.
29. All organizational charts of NAM prepared at any time from 1999 to the present.
30. Ann Raider's personnel file.
31. Robert Fireman's personnel file.
32. All documents which refer, reflect or relate to the negotiations between CCMI and NAM regarding the sale of CCMI's stock to NAM.
33. All documents relating to CCMI, SmartSource Direct or SmartSource iGroup's operations.
34. All contracts, agreement or understandings between NAM and Ann Raider.
35. All contracts, agreements or understandings between NAM and Robert Fireman.
36. Any and all financial statements of NAM from 1999 to 2004.

37. Any and all financial statements of CCMI, SmartSource Direct or SmartSource iGroup from 1999 to the present.
38. All documents which refer, reflect or relate to NAM's decision to change the name of CCMI.
39. All documents which refer, reflect or relate to Ann Raider or Robert Fireman.
40. All documents which refer, reflect or relate to the loyalty marketing industry, including but not limited to business plans, reports, studies or surveys received or prepared at any time from 1997 to the present.

ANN RAIDER AND ROBERT FIREMAN

By their attorneys,

I hereby certify that a true copy of the  
above document was served upon the  
attorney of record for each other party  
by first class mail on 6/1/06



Dated: June 1, 2006

/s David H. Rich

Kevin T. Peters (BBO #550522)  
David H. Rich (BBO #634275)  
Todd & Weld LLP  
28 State Street  
Boston, MA 02109  
(617) 720-2626

## **EXHIBIT 6**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

ROBERT FIREMAN and ANN RAIDER,

Plaintiffs,

v.

Civil Action No. 05-11740-MLW

NEWS AMERICA MARKETING IN-STORE,  
INC.,

Defendant.

**DEFENDANT NEWS AMERICA MARKETING IN-STORE, INC.'S  
RESPONSES TO ROBERT FIREMAN AND ANN RAIDER'S FIRST  
SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS**

News America Marketing In-Store, Inc. ("NAM") hereby responds to the separately-numbered requests of Plaintiffs' First Requests for Production of Documents (the "Requests") as follows:

**GENERAL RESPONSES AND OBJECTIONS**

The following General Responses and Objections are applicable to and are hereby incorporated by reference into each of NAM's specific responses to each document request contained in the Requests.

A. NAM objects to the Requests' Definitions and Instructions to the extent they exceed the requirements of the Federal Rules of Civil Procedure.

B. NAM is providing this response to the Requests without waiver of or prejudice to its right, at any later time, to raise objections to (a) the relevance, materiality, or admissibility of (i) the Requests or any part thereof, (ii) statements made in this response to the Requests or any part thereof, or (iii) any document produced pursuant to this response, or (b) any further demand for discovery involving or relating to the matters raised in the Requests.

C. The Specific Responses set forth below and any production NAM undertakes to make pursuant thereto are based upon information now available to it after having made a diligent search within the time available of the files in its possession, custody or control that reasonably relate to one or more of the specific document production requests contained in the Requests. NAM may, in the future, obtain or locate additional documents responsive to the Requests and may identify or determine additional information relevant to its Specific Responses to the document production requests contained in the Requests. NAM objects to the Requests to the extent they purport to demand production of documents not in NAM's possession, custody, or control or to require a search that does not reasonably relate to one or more of the specific document production requests contained in the Requests. NAM reserves the right at any time to revise, correct, add to, supplement, modify, or clarify the Specific Responses set forth below or the production made pursuant thereto.

D. NAM objects to the Requests to the extent they demand production of any document covered by the attorney-client privilege, the work-product doctrine, or any other applicable privilege or doctrine recognized by Fed. R. Civ. P. 26, including the doctrine relating to documents prepared in anticipation of litigation. In the event any privileged document is produced by NAM, its production is inadvertent and does not constitute a waiver of any privilege.

E. NAM objects to the Requests to the extent that they are overly broad, unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence.

F. NAM objects to the Requests to the extent they purport to seek documents evidencing, referring, relating, pertaining to or created by any expert, as that term is used in Fed. R. Civ. P. 26 or his/her representative, or that describes, summarizes, evidences or sets forth any

communications by and between NAM and any such expert, or his/her representative, beyond those Plaintiff is entitled to receive pursuant to Mass. R. Civ. P. 26.

G. NAM objects to the production of any documents falling within one of the General Objections set forth above or one of the Specific Objections set forth below. In the event any document falling within such an objection is or may be produced by NAM, its production is inadvertent and does not constitute a waiver of the objection with respect to the produced document or any other document. Moreover, a statement by NAM that it will produce all documents responsive to a particular request or falling within a particular description means that NAM will produce all documents within its possession, custody, or control that (a) are responsive to the particular request or fall within the particular description in question; (b) have been located by NAM after diligent search, and (c) do not fall within one of the General Objections set forth above or within any of the objections contained in the Specific Responses set forth below. Further, such a statement is not an acknowledgment or an admission that any document responsive to the particular request or falling within the particular description in question currently exists or has ever existed.

H. Production of all documents is subject to entry of a confidentiality stipulation and order.

#### SPECIFIC RESPONSES AND OBJECTIONS

##### REQUEST NO. 1

All documents which refer, reflect or relate to Consumer Card Marketing, Inc. ("CCMI").

##### RESPONSE NO. 1

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, unduly burdensome, and that the documents sought are protected by the attorney-

client privilege. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 2**

All documents which refer, reflect or relate to SmartSource Direct from 1999 to 2004.

**RESPONSE NO. 2**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, unduly burdensome, and that the documents sought are protected by the attorney-client privilege. Without waiving the objections, NAM will produce such readily available unprivileged documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 3**

All documents which refer, reflect or relate to SmartSource iGroup from 1999 to 2004.

**RESPONSE NO. 3**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, unduly burdensome, and that the documents sought are protected by the attorney-client privilege. Without waiving the objections, NAM will produce such readily available unprivileged documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 4**

All documents which refer, reflect or relate to any business plans of CCMI.

**RESPONSE NO. 4**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome, and that the documents sought are protected by the attorney-client privilege. Without waiving the objections, NAM will produce such readily



available unprivileged documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 5**

All documents which refer, reflect or relate to any business plans prepared or reviewed prior to the acquisition of CCMI relating to the business of CCMI.

**RESPONSE NO. 5**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, unduly burdensome, and that the documents sought are protected by the attorney-client privilege. Without waiving the objections, NAM will produce such readily available unprivileged documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 6**

For the years 1999 to 2004, all documents which refer, reflect or relate to any annual business plans which relate, reflect or refer to the business of CCMI, SmartSource Direct or SmartSource iGroup.

**RESPONSE NO. 6**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 7**

All documents utilized, reviewed or prepared in connection with the preparation of the business plans sought by Request No. 6.

**RESPONSE NO. 7**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such

readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 8**

All documents which refer, reflect or relate to any due diligence performed on CCMI prior to the acquisition in 1999.

**RESPONSE NO. 8**

NAM objects to the above request on the grounds that the request is vague and ambiguous and the documents sought are protected by the attorney-client privilege and not calculated to lead to the discovery of admissible evidence in this action. Without waiving the objection, NAM will produce unprivileged due diligence documents.

**REQUEST NO. 9**

All documents which reflect communications between Raider and/or Fireman, on one hand, and NAM, on the other.

**RESPONSE NO. 9**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 10**

All documents which refer, reflect or relate to the August 13, 1999 Stock Purchase Agreement between NAM, Fireman and Raider. This request includes, but is not limited to pro formas, drafts, notes, memoranda, facsimile, electronic mail and both external and internal communications regarding the Stock Purchase Agreement.

**RESPONSE NO. 10**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, unduly burdensome, and that the documents sought are protected by the attorney-client privilege. Without waiving the objections, NAM will produce such readily available

unprivileged documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 11**

All documents which refer, reflect or relate to the earn-out component of the August 13, 1999 Stock Purchase Agreement. This request includes, but is not limited to, pro formas, calculations, draft calculations, memoranda, facsimile, spreadsheets, electronic mail, notes of communications, both internal and external communications.

**RESPONSE NO. 11**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, unduly burdensome, and that the documents sought are protected by the attorney-client privilege. Without waiving the objections, NAM will produce such readily available unprivileged documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 12**

All documents which refer, reflect or relate to the "Base Earn-Out Amount" component of the August 13, 1999 Stock Purchase Agreement. This request includes, but is not limited to, pro formas, calculations, draft calculations, memoranda, facsimile, spreadsheets, electronic mail, notes of communications, both internal and external communications.

**RESPONSE NO. 12**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, unduly burdensome, and that the documents sought are protected by the attorney-client privilege. Without waiving the objections, NAM will produce such readily available unprivileged documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 13**

All documents utilized to calculate the Base Earn-Out Amount at any time.

**RESPONSE NO. 13**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 14**

All documents which refer, reflect or relate to the "First-Year Bonus Amount" component of the August 13, 1999 Stock Purchase Agreement. This request includes, but is not limited to, pro formas, calculations, draft calculations, memoranda, facsimile, spreadsheets, electronic mail, notes of communications, both internal and external communications.

**RESPONSE NO. 14**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 15**

All documents utilized to calculate the First Year Bonus Amount at any time.

**RESPONSE NO. 15**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 16**

All documents which refer, reflect or relate to the "Second Year Bonus Amount" component of the August 13, 1999 Stock Purchase Agreement. This request includes, but is not limited to, pro formas, calculations, draft calculations, memoranda, facsimile, spreadsheets, electronic mail, notes of communications, both internal and external communications.

**RESPONSE NO. 16**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 17**

All document utilized to calculate the Second Year Bonus Amount at any time.

**RESPONSE NO. 17**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 18**

All documents which refer, reflect or relate to the "Third Year Bonus Amount" component of the August 13, 1999 Stock Purchase Agreement. This request includes, but is not limited to, pro formas, calculations, draft calculations, memoranda, facsimile, spreadsheets, electronic mail, notes of communications, both internal and external communications.

**RESPONSE NO. 18**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 19**

All document utilized to calculate the Third Year Bonus Amount at any time.

**RESPONSE NO. 19**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 20**

All documents which refer, reflect or relate to the "Fourth Year Bonus Amount" component of the August 13, 1999 Stock Purchase Agreement. This request includes, but is not limited to, pro formas, calculations, draft calculations, memoranda, facsimile, spreadsheets, electronic mail, notes of communications, both internal and external communications.

**RESPONSE NO. 20**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 21**

*All document utilized to calculate the Fourth Year Bonus Amount at any time.*

**RESPONSE NO. 21**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 22**

All documents which refer, reflect or relate to the "Fifth Year Bonus Amount" component of the August 13, 1999 Stock Purchase Agreement. This request includes, but is not limited to, pro formas, calculations, draft calculations, memoranda, facsimile, spreadsheets, electronic mail, notes of communications, both internal and external communications.

**RESPONSE NO. 22**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 23**

All document utilized to calculate the Fifth Year Bonus Amount at any time.

**RESPONSE NO. 23**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 24**

All documents which refer, reflect or relate to any budgets or projections relating to CCMI, including drafts thereof.

**RESPONSE NO. 24**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 25**

All NAM or News Corp. board of director's meeting minutes where CCMI, Smartsources Direct or SmartSource iGroup were discussed, mentioned or referenced.

**RESPONSE NO. 25**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, unduly burdensome, and not calculated to lead to the discovery of admissible evidence.

**REQUEST NO. 26**

Minutes or notes of any meeting of any NAM or News Corp. executive, manager or member of the finance or accounting department where Ann Raider, Robert Fireman, CCMI, Smartsource Direct or SmartSource iGroup were discussed, mentioned or referenced.

**RESPONSE NO. 26**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, unduly burdensome, and not calculated to lead to the discovery of admissible evidence.

**REQUEST NO. 27**

Materials generated or reviewed during any portion of any meeting where Ann Raider, Robert Fireman, CCMI, Smartsource Direct or SmartSource iGroup were discussed, mentioned or referenced.

**RESPONSE NO. 27**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 28**

All proposed or adopted organizational charts of CCMI, SmartSource Direct or SmartSource iGroup prepared at any time.



**RESPONSE NO. 28**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objection, NAM will produce such readily available documents to the extent they exist.

**REQUEST NO. 29**

All organizational charts of NAM prepared at any time from 1999 to the present.

**RESPONSE NO. 29**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, unduly burdensome, and not calculated to lead to the discovery of admissible evidence. Without waiving the objection, NAM will produce such readily available documents to the extent they exist.

**REQUEST NO. 30**

Ann Raider's personnel file.

**RESPONSE NO. 30**

NAM will produce the requested documents.

**REQUEST NO. 31**

Robert Fireman's personnel file.

**RESPONSE NO. 31**

NAM will produce the requested documents.

**REQUEST NO. 32**

All documents which refer, reflect or relate to the negotiations between CCMI and NAM regarding the sale of CCMI's stock to NAM.

**RESPONSE NO. 32**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, unduly burdensome, and seek privileged information. Without waiving the

objection, NAM will produce such readily available unprivileged documents to the extent they exist.

**REQUEST NO. 33**

All documents relating to CCMI, SmartSource Direct or SmartSource iGroup's operations.

**RESPONSE NO. 33**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, unduly burdensome, and not calculated to lead to the discovery of admissible evidence. Without waiving the objections, NAM will produce such readily available documents, to the extent they exist, as may be relevant to the issues raised in the complaint.

**REQUEST NO. 34**

All contracts, agreement or understandings between NAM and Ann Raider.

**RESPONSE NO. 34**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objection, NAM will produce such documents to the extent they exist.

**REQUEST NO. 35**

All contracts, agreements or understandings between NAM and Robert Fireman.

**RESPONSE NO. 35**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objection, NAM will produce such documents to the extent they exist.

**REQUEST NO. 36**

Any and all financial statements of NAM from 1999 to 2004.

**RESPONSE NO. 36**

NAM objects to the above request on the ground that it is overly broad and not reasonably calculated to lead to the discovery of admissible evidence.

**REQUEST NO. 37**

Any and all financial statements of CCMI, SmartSource Direct or SmartSource iGroup from 1999 to the present.

**RESPONSE NO. 37**

NAM objects to the above request on the ground that it is overly broad. Without waiving the objection, NAM will produce such readily available documents to the extent they exist.

**REQUEST NO. 38**

All documents which refer, reflect or relate to NAM's decision to change the name of CCMI.

**RESPONSE NO. 38**

NAM objects to the above request on the ground that it is overly broad. Without waiving the objection, NAM will produce such readily available documents to the extent they exist.

**REQUEST NO. 39**

All documents which refer, reflect or relate to Ann Raider or Robert Fireman.

**RESPONSE NO. 39**

NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, and unduly burdensome. Without waiving the objections, NAM will produce such documents, to the extent they exist, as may be relevant to the issues raised in the complaint and are readily available.

**REQUEST NO. 40**

All documents which refer, reflect or relate to the loyalty marketing industry, including but not limited to business plans, reports, studies or surveys received or prepared at any time from 1997 to the present.

**RESPONSE NO. 40**

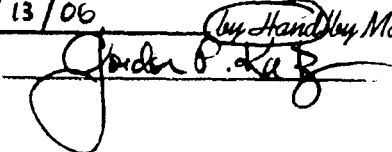
NAM objects to the above request on the grounds that it is overly broad, vague and ambiguous, unduly burdensome, and not calculated to lead to the discovery of admissible evidence.

NEWS AMERICA MARKETING IN-STORE,  
INC.

By its attorneys,

  
Gordon P. Katz (BBO# 161080)  
Tara L. Myslinski (BBO #644936)  
HOLLAND & KNIGHT LLP  
10 St. James Avenue  
Boston, MA 02116  
(617) 523-2700

Dated: September 8, 2006  
Boston, Massachusetts

*I hereby certify that a true copy of the  
above document(s) was served upon all  
parties of record in this case on  
8/13/06*  
 *by Hand/Dry Mail*

## **EXHIBIT 7**

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

1

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

-----x  
ROBERT FIREMAN and ANN RAIDER, :  
Plaintiffs, : Civil Action No.  
-vs.- : 05-1740 MLW  
NEWS AMERICA MARKETING IN-STORE, :  
INC., Defendant. :  
-----x

Deposition of ALFRED A. McBEAN, JR., taken in  
the above-entitled matter before RICH GERMOSEN,  
Certified Court Reporter, (License No. XI01847),  
Certified Realtime Court Reporter-NJ, (License No.  
XR00168), NCRA Registered Professional Reporter, NCRA  
Certified Realtime Reporter, Certified LiveNote  
Reporter, and a Notary Public within and for the  
States of New York and New Jersey, taken at the  
offices of News America, Incorporated, 1211 Avenue of  
the Americas, 3rd Floor, New York, New York  
10036-8701, on Tuesday, March 27, 2007, commencing at  
11:02 a.m.

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

2 (Pages 2 to 5)

<p style="text-align: right;">2</p> <p>1 APPEARANCES</p> <p>2 Attorney for the Plaintiffs:</p> <p>3 KEVIN T. PETERS, ESQ.</p> <p>4 TODD &amp; WELD LLP</p> <p>5 28 State Street - 31st Floor</p> <p>6 Boston, MA 02109-1775</p> <p>7 (617) 720-2626</p> <p>8</p> <p>9 Attorney for the Defendant:</p> <p>10 GORDON P. KATZ, ESQ.</p> <p>11 HOLLAND &amp; KNIGHT LLP</p> <p>12 10 St. James Avenue - 11th Floor</p> <p>13 Boston, MA 02116-3889</p> <p>14 (617) 573-5839</p> <p>15</p> <p>16</p> <p>17 ALSO PRESENT:</p> <p>18 J. JORDAN LIPPNER, ESQ., News America Incorporated</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">4</p> <p>1 IT IS HEREBY STIPULATED AND AGREED, by</p> <p>2 and between the attorneys for the respective parties</p> <p>3 herein, that filing and sealing be and the same are</p> <p>4 hereby waived.</p> <p>5 IT IS FURTHER STIPULATED AND AGREED</p> <p>6 that all objections, except as to the form of the</p> <p>7 question, shall be preserved to the time of trial.</p> <p>8 IT IS FURTHER STIPULATED AND AGREED</p> <p>9 that the within deposition may be signed and sworn</p> <p>10 to before any officer authorized to administer an</p> <p>11 oath, with the same force and effect as if signed</p> <p>12 and sworn to before the officer before whom the</p> <p>13 within deposition was taken.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">3</p> <p>1 CONTENTS</p> <p>2 WITNESS: ALFRED A. McBEAN, JR. PAGE</p> <p>3 Examination By Mr. Peters ..... 005</p> <p>4</p> <p>5 EXHIBITS</p> <p>6 NUMBER DESCRIPTION PAGE LINE</p> <p>7 1 (Exhibit 1 for identification,</p> <p>8 four-page document entitled</p> <p>9 Notice of Taking Deposition,</p> <p>10 not bearing Bates stamps.) ..... 010 .. 017</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">5</p> <p>1 PROCEEDINGS</p> <p>2 (Whereupon, the court reporter</p> <p>3 administers the oath to the witness.)</p> <p>4 ALFRED A. McBEAN, JR.,</p> <p>5 conducting business at News America Marketing,</p> <p>6 20 Westport Road, 1st Floor, Wilton, Connecticut</p> <p>7 06897, residing at 29 Thompson Street, Fairfield,</p> <p>8 Connecticut 06825, having been first duly sworn</p> <p>9 or affirmed by a Notary Public within and for the</p> <p>10 States of New York and New Jersey, was examined</p> <p>11 and testified as follows:</p> <p>12 EXAMINATION BY MR. PETERS:</p> <p>13 Q. Good morning.</p> <p>14 A. Good morning.</p> <p>15 Q. We met briefly a moment ago. I'm</p> <p>16 Kevin Peters. I represent the Plaintiffs in this</p> <p>17 case. I appreciate you taking the time to get</p> <p>18 ready for this deposition and appearing today.</p> <p>19 Would you introduce yourself to</p> <p>20 us, give the name and the spelling of your name.</p> <p>21 A. Alfred McBean, A-l-f-r-e-d,</p> <p>22 M-c-B-e-a-n.</p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

3 (Pages 6 to 9)

<p>6</p> <p>1 Q. Where do you work, sir?</p> <p>2 A. <b>News America Marketing.</b></p> <p>3 Q. What is your job?</p> <p>4 A. <b>I'm the vice-president of Windows</b></p> <p>5 <b>technology.</b></p> <p>6 Q. What are your job</p> <p>7 responsibilities?</p> <p>8 A. <b>Managing the Windows environment</b></p> <p>9 <b>from an end user experience and operations side</b></p> <p>10 <b>as far as maintaining the functionality of all</b></p> <p>11 <b>the Windows servers.</b></p> <p>12 Q. Okay. How long have you had the</p> <p>13 job?</p> <p>14 A. <b>Under the current title two years.</b></p> <p>15 Q. Okay.</p> <p>16 How long have you worked for News</p> <p>17 America?</p> <p>18 A. <b>I started in June of 2000.</b></p> <p>19 Q. Okay.</p> <p>20 Did you replace someone? Did</p> <p>21 someone have your job?</p> <p>22 A. <b>No. At the time that I was hired</b></p>	<p>8</p> <p>1 A. <b>No, he's not.</b></p> <p>2 Q. Okay. Do you know where he went?</p> <p>3 A. <b>He went to Fox.</b></p> <p>4 Q. Okay.</p> <p>5 So he's still within the News</p> <p>6 America family of companies?</p> <p>7 MR. KATZ: Objection.</p> <p>8 A. <b>Yes.</b></p> <p>9 Q. Okay.</p> <p>10 Do you know what his job is</p> <p>11 presently?</p> <p>12 A. <b>Yes.</b></p> <p>13 Q. What is it?</p> <p>14 A. <b>He's the vice-president of</b></p> <p>15 <b>technology for Fox.</b></p> <p>16 MR. KATZ: Yeah, you know, before</p> <p>17 we go any further should we put some stipulations</p> <p>18 on the record?</p> <p>19 MR. PETERS: Okay.</p> <p>20 MR. KATZ: Sounds like a good idea.</p> <p>21 MR. PETERS: Why not. I've done</p> <p>22 that.</p>
<p>7</p> <p>1 <b>I believe that this was a new head count.</b></p> <p>2 Q. Okay.</p> <p>3 Who was in charge of technology or</p> <p>4 IT before you came on board if you know?</p> <p>5 A. <b>I could only tell you who my</b></p> <p>6 <b>hiring manager was.</b></p> <p>7 Q. Why don't you tell me that?</p> <p>8 A. <b>Sunnell Sajjani.</b></p> <p>9 Q. Could you spell that, please?</p> <p>10 A. <b>S-u-n -</b></p> <p>11 Q. The questions only get easier.</p> <p>12 A. <b>Yeah, I know. Hold on.</b></p> <p>13 <b>S-u-n-n-e-l. Hold on. I'll have to get back to</b></p> <p>14 <b>you on his first name. His last name is</b></p> <p>15 <b>S-a-j-n-a-n-i.</b></p> <p>16 Q. S-a-j -</p> <p>17 A. <b>S-a-j-n-a-n-i.</b></p> <p>18 Q. Okay.</p> <p>19 And what was his position?</p> <p>20 A. <b>Vice-president of technology.</b></p> <p>21 Q. Okay.</p> <p>22 Is he still with the company?</p>	<p>9</p> <p>1 MR. KATZ: Okay. We've done it</p> <p>2 before.</p> <p>3 MR. PETERS: We've done it before.</p> <p>4 MR. KATZ: And the two of us have</p> <p>5 done it several times.</p> <p>6 MR. PETERS: That's right.</p> <p>7 Why don't we reserve objections</p> <p>8 except as to the form of the question until the</p> <p>9 time of trial or use of the transcript in a</p> <p>10 dispositive motion like a summary judgment motion,</p> <p>11 for instance, and why don't we reserve motions to</p> <p>12 strike until the time of trial or use of the</p> <p>13 transcript in a dispositive motion. The witness</p> <p>14 will want to read and sign I'm sure, Gordon, but</p> <p>15 we'd waive Notary.</p> <p>16 Does that cover the waterfront?</p> <p>17 MR. KATZ: I think so with the</p> <p>18 exception that the only objections we're not</p> <p>19 reserving and the only motions to strike we're not</p> <p>20 reserving would be those as to form.</p> <p>21 MR. PETERS: Only as to form.</p> <p>22 MR. KATZ: Let me just add one</p>



McBean, Jr., Alfred A.

March 27, 2007

New York, NY

4 (Pages 10 to 13)

<p style="text-align: right;">10</p> <p>1 further thing as a preliminary matter.</p> <p>2 As you know we sent you certain</p> <p>3 objections to your 30(b)(6) deposition, that is</p> <p>4 the 30(b)(6) deposition under which Mr. McBean is</p> <p>5 appearing here today in a letter dated January</p> <p>6 26th, 2007. I'm not going to repeat those here,</p> <p>7 but I just want to incorporate by reference that</p> <p>8 letter dated January 26th, 2007 and if you'd like</p> <p>9 we can mark it as an exhibit. I don't happen to</p> <p>10 have a clean copy of it with me today, but we can</p> <p>11 amend the record when we return to Boston if you'd</p> <p>12 like to do that.</p> <p>13 MR. PETERS: Well, why don't we do</p> <p>14 this:</p> <p>15 Would you mark as the first exhibit</p> <p>16 a Notice of Deposition.</p> <p>17 (Whereupon, four-page document</p> <p>18 entitled Notice of Taking Deposition, not bearing</p> <p>19 Bates stamps, is received and marked as McBean</p> <p>20 Exhibit 1 for Identification.)</p> <p>21 COURT REPORTER: Number 1.</p> <p>22</p>	<p style="text-align: right;">12</p> <p>1 MR. KATZ: The person who has</p> <p>2 knowledge on the subject as I've indicated in the</p> <p>3 letter of January 26th, 2007 is me.</p> <p>4 MR. PETERS: So there's no</p> <p>5 corporate person who was responsible for</p> <p>6 coordinating the effort to collect electronic</p> <p>7 documents or paper documents?</p> <p>8 MR. KATZ: That -- the person who</p> <p>9 is responsible for the coordination of the effort</p> <p>10 to collect electronic documents or paper documents</p> <p>11 has been me.</p> <p>12 MR. PETERS: Okay.</p> <p>13</p> <p>14 BY MR. PETERS:</p> <p>15 Q. Well, let me just ask the witness,</p> <p>16 did you collect any documents and provide them to</p> <p>17 Mr. Katz electronic or otherwise?</p> <p>18 A. In relation to Number 5?</p> <p>19 Q. Just generally in relation to this</p> <p>20 litigation?</p> <p>21 A. Yes, I collected documents where I</p> <p>22 provided it to him.</p>
<p style="text-align: right;">11</p> <p>1 BY MR. PETERS:</p> <p>2 Q. Mr. McBean, I'm showing you a copy</p> <p>3 of a Notice of Deposition.</p> <p>4 Would you take a look at it and</p> <p>5 see if you recognize the document.</p> <p>6 A. Yes, I recognize the document.</p> <p>7 Q. Okay.</p> <p>8 Is this deposition notice the</p> <p>9 notice that brings you here today?</p> <p>10 A. Yes.</p> <p>11 Q. Okay.</p> <p>12 MR. PETERS: Now, Gordon, your</p> <p>13 objections as I understand, as I understand them</p> <p>14 to be pertain to 5, category 5?</p> <p>15 MR. KATZ: Principally. For</p> <p>16 present discussion that's the one that is most</p> <p>17 significant and that is that Mr. McBean is not</p> <p>18 testifying as a corporate representative with</p> <p>19 respect to Number 5 on Exhibit 1.</p> <p>20 MR. PETERS: Okay.</p> <p>21 Is there another person that's</p> <p>22 available to testify on that?</p>	<p style="text-align: right;">13</p> <p>1 Q. Okay.</p> <p>2 What categories of documents did</p> <p>3 you provide?</p> <p>4 A. Documents that he had requested</p> <p>5 from me.</p> <p>6 Q. Do you recall what they are?</p> <p>7 A. One was previous deposition and</p> <p>8 documents pertaining to corporate policies.</p> <p>9 Q. Okay.</p> <p>10 Anything else, any other</p> <p>11 categories of documents?</p> <p>12 A. No.</p> <p>13 Q. Okay.</p> <p>14 Can you define with more precision</p> <p>15 the documents pertaining to corporate policies?</p> <p>16 A. Policies, News Corp. policies on</p> <p>17 records management and computer usage.</p> <p>18 Q. Did you review those documents in</p> <p>19 advance of today's deposition?</p> <p>20 A. Yes.</p> <p>21 Q. Are you familiar with the</p> <p>22 substance of those documents in a general way?</p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

5 (Pages 14 to 17)

<p style="text-align: right;">14</p> <p>1 A. Yes.</p> <p>2 Q. Okay.</p> <p>3 So if we ask questions later on in</p> <p>4 the deposition about corporate policies, you'll</p> <p>5 have a working knowledge of those documents?</p> <p>6 A. No. I mean I know what the</p> <p>7 documents are about, but I don't know them</p> <p>8 verbatim.</p> <p>9 Q. Okay. We'll just get into that.</p> <p>10 In any event, we were talking</p> <p>11 about your job responsibilities and your hire</p> <p>12 back in 2000.</p> <p>13 When you were hired what were you</p> <p>14 hired to do?</p> <p>15 A. My first position with News</p> <p>16 America Marketing was a senior technologist.</p> <p>17 Q. What were your job</p> <p>18 responsibilities?</p> <p>19 A. Job responsibilities were to chart</p> <p>20 technology mostly in the Windows space and</p> <p>21 introduce them into News America Marketing.</p> <p>22 Q. What does that mean, to chart</p>	<p style="text-align: right;">16</p> <p>1 technology?</p> <p>2 A. I managed the Windows, the entire</p> <p>3 Windows environment for News America Marketing,</p> <p>4 the end user experience as far as applications</p> <p>5 that are hosted on the Windows servers and the</p> <p>6 operational stability of the environment. So</p> <p>7 anything that was Microsoft Windows related from</p> <p>8 an application or server perspective I was</p> <p>9 directly responsible for.</p> <p>10 Q. And this was for News America, the</p> <p>11 company?</p> <p>12 A. This is for News America</p> <p>13 Marketing.</p> <p>14 Q. News America Marketing.</p> <p>15 And so did that cover News America</p> <p>16 Marketing In-Store, Inc.?</p> <p>17 A. Yes.</p> <p>18 Q. Is that a company familiar to you?</p> <p>19 Are you familiar with a company or</p> <p>20 division called SmartSource Direct?</p> <p>21 A. Yes.</p> <p>22 Q. Are you responsible for their</p>
<p style="text-align: right;">15</p> <p>1 technology?</p> <p>2 A. For instance, one of my first</p> <p>3 projects was to look at the way that the</p> <p>4 organization is receiving faxes and figure out a</p> <p>5 way to automate them. So we looked at a product,</p> <p>6 looked at several products, isolated it down to a</p> <p>7 product and then I did a pilot, internal pilot</p> <p>8 and we went to full production as far as being</p> <p>9 able to automatically send faxes out on behalf of</p> <p>10 our users electronically.</p> <p>11 Q. Okay.</p> <p>12 Have your job responsibilities</p> <p>13 changed over the years?</p> <p>14 A. Yes.</p> <p>15 Q. Can you tell me how they've</p> <p>16 evolved?</p> <p>17 A. I went from senior technologist to</p> <p>18 director of Windows technology. I want to say</p> <p>19 that happened in 2001. And then in 2005 I became</p> <p>20 a vice-president of Windows technology.</p> <p>21 Q. What were your job</p> <p>22 responsibilities as a director of Windows</p>	<p style="text-align: right;">17</p> <p>1 data?</p> <p>2 A. Yes.</p> <p>3 Q. And the SmartSource I Group, are</p> <p>4 you familiar with that?</p> <p>5 A. Yes.</p> <p>6 Q. Were you responsible for the</p> <p>7 Windows environment for the SmartSource I Group?</p> <p>8 A. Yes.</p> <p>9 Q. And was that the case from did you</p> <p>10 say June of 2000?</p> <p>11 A. No.</p> <p>12 Q. When did you start?</p> <p>13 A. That would have taken place 2001.</p> <p>14 Q. Okay.</p> <p>15 So let me see if I have this. You</p> <p>16 became responsible for the Windows environment</p> <p>17 for the SmartSource I Group, Smart Source Direct</p> <p>18 in 2001?</p> <p>19 A. Yes.</p> <p>20 Q. And that's when you became the</p> <p>21 director of Windows technology?</p> <p>22 A. Correct.</p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

6 (Pages 18 to 21)

<p style="text-align: right;">18</p> <p>1 Q. Okay.</p> <p>2 So before you became the director</p> <p>3 of Windows technology and you were a senior</p> <p>4 technician, you were not responsible for the</p> <p>5 Windows environments of any News America</p> <p>6 Marketing division, is that correct?</p> <p>7 A. Correct.</p> <p>8 Q. Okay.</p> <p>9 Who was responsible for those</p> <p>10 environments prior to you?</p> <p>11 A. Prior to me PJ Papple.</p> <p>12 Q. How do you spell -- is it a man or</p> <p>13 a woman?</p> <p>14 A. It's a man.</p> <p>15 Q. How do you spell his last name?</p> <p>16 A. P-a-p-l-e.</p> <p>17 Q. Okay.</p> <p>18 What was his job title?</p> <p>19 A. I am not sure, but I believe it</p> <p>20 was vice-president of operations.</p> <p>21 Q. Do you know what his job</p> <p>22 responsibilities were vis-a-vis information</p>	<p style="text-align: right;">20</p> <p>1 A. He's vice-president of databases.</p> <p>2 He manages News America Marketing's databases so</p> <p>3 Oracle databases.</p> <p>4 Q. Okay.</p> <p>5 Are you responsible for purchasing</p> <p>6 hardware?</p> <p>7 A. Not entirely.</p> <p>8 Q. Okay.</p> <p>9 Is there one person that has</p> <p>10 responsibility for hardware purchases?</p> <p>11 A. No.</p> <p>12 Q. Okay.</p> <p>13 What are your job responsibilities</p> <p>14 in terms of purchasing hardware?</p> <p>15 A. I recommend hardware to be</p> <p>16 purchased.</p> <p>17 Q. Does News America Marketing have</p> <p>18 any preferred vendors of hardware?</p> <p>19 A. Yes.</p> <p>20 Q. Who are those vendors?</p> <p>21 A. For the hardware that I recommend</p> <p>22 purchases for predominantly it's HP.</p>
<p style="text-align: right;">19</p> <p>1 technology for News America Marketing and the</p> <p>2 divisions of that?</p> <p>3 A. I don't have his total job</p> <p>4 responsibilities. I do know that he was manager</p> <p>5 of the Windows environment.</p> <p>6 Q. Okay.</p> <p>7 Does he still work for News</p> <p>8 America Marketing?</p> <p>9 A. Yes, he does.</p> <p>10 Q. Do you know what his position is</p> <p>11 currently?</p> <p>12 A. Vice-president of database</p> <p>13 technology.</p> <p>14 Q. Okay.</p> <p>15 To whom does he report?</p> <p>16 A. Today he reports to William</p> <p>17 Christie.</p> <p>18 Q. To whom do you report?</p> <p>19 A. I report into William Christie.</p> <p>20 Q. Okay.</p> <p>21 What are Mr. Papple's job</p> <p>22 responsibilities presently if you know?</p>	<p style="text-align: right;">21</p> <p>1 Q. Okay.</p> <p>2 So are the servers that you --</p> <p>3 I'll ask this question: Do you manage the</p> <p>4 servers?</p> <p>5 A. Yes.</p> <p>6 Q. Okay.</p> <p>7 Are the servers HP servers?</p> <p>8 A. Yes.</p> <p>9 Q. Would you tell me what model</p> <p>10 numbers? Do you know what, that's probably a bit</p> <p>11 of an unfair question.</p> <p>12 Let me ask you this question: How</p> <p>13 many servers do you oversee?</p> <p>14 A. Today?</p> <p>15 Q. Yes.</p> <p>16 A. Roughly two hundred and -- roughly</p> <p>17 two hundred.</p> <p>18 Q. Where are they located?</p> <p>19 A. Across the United States. Across</p> <p>20 North America.</p> <p>21 Q. How many offices do you have job</p> <p>22 responsibilities for?</p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

7 (Pages 22 to 25)

<p style="text-align: right;">22</p> <p>1       <b>A. Fifteen.</b>  2       <b>Q. Okay.</b>  3           And each of these offices has its  4 own servers?  5       <b>A. Correct.</b>  6       <b>Q. And are they networked?</b>  7       <b>A. I take that back. It's more like</b>  8 <b>twenty offices.</b>  9       <b>Q. Twenty.</b>  10           Are they networked?  11       <b>A. Yes.</b>  12       <b>Q. Are they networked to</b>  13 <b>headquarters?</b>  14       <b>A. It's a fully mesh network so</b>  15 <b>all -- all connections -- all cities connected to</b>  16 <b>the mesh connect to each other. So all cities</b>  17 <b>connect to each other.</b>  18       <b>Q. Okay.</b>  19           And we'll get into backing up, but  20 is all the backup done in one location?  21       <b>A. No.</b>  22       <b>Q. It's all backed up in the separate</b></p>	<p style="text-align: right;">24</p> <p>1 <b>Dell and there might have been one or two</b>  2 <b>Gateways as well.</b>  3       <b>Q. Was all the data on those servers</b>  4 <b>migrated over to the HP servers at some point</b>  5 <b>over time?</b>  6       <b>A. Data that -- well, depending on</b>  7 <b>what the business case was.</b>  8       <b>Q. Are there separate servers that</b>  9 <b>manage E-mail?</b>  10       <b>A. There are separate servers that</b>  11 <b>manage E-mail, I don't understand the question.</b>  12       <b>Q. Where does the E-mail for the News</b>  13 <b>America reside?</b>  14       <b>A. In one of four different cities.</b>  15       <b>Q. What are the cities?</b>  16       <b>A. Toronto, Chicago, Wilton and New</b>  17 <b>York.</b>  18       <b>Q. Okay.</b>  19           Are those the cities where the  20 E-mail is stored presently?  21       <b>A. Correct.</b>  22       <b>Q. Has that been the case since 2000</b></p>
<p style="text-align: right;">23</p> <p>1 offices?  2       <b>A. Correct.</b>  3       <b>Q. Okay.</b>  4           Is there a central backup?  5       <b>A. No.</b>  6       <b>Q. In other words, twenty offices,</b>  7 <b>twenty backups?</b>  8       <b>A. No.</b>  9       <b>Q. Okay.</b>  10           Why don't we take that more  11 incrementally and get back into the hardware.  12           The servers, are they particular  13 models of HP servers or do they vary widely?  14       <b>A. They vary widely, however, of</b>  15 <b>recent we've been ordering standardizing on a</b>  16 <b>type of model server.</b>  17       <b>Q. And what is that?</b>  18       <b>A. It's a Compaq DL360, or HP DL360.</b>  19       <b>Q. Okay.</b>  20           What were the servers in 2000 when  21 you joined the company?  22       <b>A. It was a mix between Compaq and</b></p>	<p style="text-align: right;">25</p> <p>1 when you joined the company?  2       <b>A. With the exception of Wilton, yes.</b>  3       <b>Q. Okay.</b>  4           And is all the E-mail -- well, let  5 me ask this: How does it break down from a  6 territorial perspective? What does New York  7 cover? What does Wilton cover? What does  8 Chicago cover and what does Toronto cover in  9 terms of E-mail?  10       <b>A. Today?</b>  11       <b>Q. Yes, right now.</b>  12       <b>A. I don't know.</b>  13       <b>Q. Okay. Do you know what it was in</b>  14 <b>2000?</b>  15       <b>A. No.</b>  16       <b>Q. Am I correct that the different</b>  17 <b>cities manage the E-mail for different parts of</b>  18 <b>the country?</b>  19       <b>A. Correct, but not always the case.</b>  20       <b>Q. What are the rules on that?</b>  21       <b>A. The exceptions could be employees</b>  22 <b>that transfer from one office to the other, their</b></p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

8 (Pages 26 to 29)

<p style="text-align: right;">26</p> <p>1 <b>E-mail in some cases may not transfer over.</b></p> <p>2 Q. Okay.</p> <p>3 And the E-mail that is in, resides</p> <p>4 on those servers, when you went from the Compaq</p> <p>5 and Dell servers to the HP servers, was that</p> <p>6 E-mail transferred to the new servers?</p> <p>7 A. When we --</p> <p>8 Q. I'm talking about the legacy</p> <p>9 E-mail.</p> <p>10 A. When we performed upgrades to our</p> <p>11 E-mail environment, mail that is on the mail</p> <p>12 servers is transferred from the legacy server to</p> <p>13 the new server.</p> <p>14 Q. Okay.</p> <p>15 What happens to the legacy</p> <p>16 servers?</p> <p>17 A. They're either repurposed or, you</p> <p>18 know, if they're end of life then we will dispose</p> <p>19 of them.</p> <p>20 Q. Are there old servers in New York</p> <p>21 from the case of the Compaq and Dell generation</p> <p>22 hardware?</p>	<p style="text-align: right;">28</p> <p>1 break it down.</p> <p>2</p> <p>3 BY MR. PETERS:</p> <p>4 Q. Well, the New York E-mail is on</p> <p>5 the New York server, correct?</p> <p>6 A. Not always the case.</p> <p>7 Q. But generally?</p> <p>8 A. That's usually the mode of</p> <p>9 operation, but not always the case.</p> <p>10 Q. And the Boston E-mail, is that on</p> <p>11 the New York server?</p> <p>12 A. Not always the case.</p> <p>13 Q. Is that generally the case?</p> <p>14 A. No.</p> <p>15 Q. Where does that reside?</p> <p>16 A. Today?</p> <p>17 Q. Yes.</p> <p>18 A. I want to say Chicago.</p> <p>19 Q. Okay.</p> <p>20 A. But I need to verify that.</p> <p>21 Q. Okay.</p> <p>22 Now, what legacy servers did</p>
<p style="text-align: right;">27</p> <p>1 A. In relation to E-mail?</p> <p>2 Q. Yes, sir.</p> <p>3 A. I do know that at the time New</p> <p>4 York was running on Dell equipment. So those</p> <p>5 servers are no longer available. Those are done.</p> <p>6 We dumped them.</p> <p>7 Q. So they're no longer in your</p> <p>8 possession?</p> <p>9 A. That's correct.</p> <p>10 Q. Okay.</p> <p>11 A. They were very old Dell systems.</p> <p>12 Q. Now, the E-mail I'm obviously most</p> <p>13 interested in is the E-mail that was in New York</p> <p>14 and in Boston.</p> <p>15 A. Right.</p> <p>16 Q. Would that be on the New York</p> <p>17 server more likely than not?</p> <p>18 MR. KATZ: Objection.</p> <p>19 You're referring to the New York</p> <p>20 E-mail or are you referring to the Boston E-mail?</p> <p>21 MR. PETERS: Both.</p> <p>22 MR. KATZ: So maybe you should</p>	<p style="text-align: right;">29</p> <p>1 Chicago have before you migrated over to HP?</p> <p>2 A. Dell.</p> <p>3 Q. Okay.</p> <p>4 Do you know whether or not any of</p> <p>5 those servers in Chicago still exist?</p> <p>6 A. The Dell servers, no.</p> <p>7 Q. Do you know what happened to them?</p> <p>8 A. We dumped them.</p> <p>9 Q. Do you know when?</p> <p>10 A. No. I can approximate and say</p> <p>11 probably 2002. Probably about 2002.</p> <p>12 Q. Okay.</p> <p>13 And the desktops, are they these</p> <p>14 days also generally HP?</p> <p>15 A. What we're buying today is</p> <p>16 ninety-five percent HP.</p> <p>17 Q. Okay.</p> <p>18 What was the case back in 2000</p> <p>19 when you joined the company?</p> <p>20 A. In 2000 we were purchasing Dell,</p> <p>21 HP and IBM.</p> <p>22 Q. What was in New York for the most</p>



McBean, Jr., Alfred A.

March 27, 2007

New York, NY

9 (Pages 30 to 33)

<p style="text-align: right;">30</p> <p>1 part?</p> <p>2 <b>A. I do not know.</b></p> <p>3 Q. What's the average life of a</p> <p>4 desktop at News America Marketing?</p> <p>5 <b>A. Between three and five years.</b></p> <p>6 Q. What happens to the old desktops</p> <p>7 once they're decommissioned or no longer used?</p> <p>8 <b>A. They're dumped.</b></p> <p>9 Q. What does that mean literally?</p> <p>10 <b>A. We load them up into dumpsters and</b></p> <p>11 <b>they get hauled away.</b></p> <p>12 Q. Before the desktops are hauled</p> <p>13 away is the information that resides on the</p> <p>14 desktops' hard drive backed up?</p> <p>15 MR. KATZ: Objection.</p> <p>16 As a matter of policy?</p> <p>17 MR. PETERS: Yes.</p> <p>18</p> <p>19 BY MR. PETERS:</p> <p>20 Q. As a matter of policy when a</p> <p>21 desktop is decommissioned is the data on that</p> <p>22 desktop imaged or backed up?</p>	<p style="text-align: right;">32</p> <p>1 Q. Yes, sir.</p> <p>2 Is that also the case with E-mail?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. Which Windows operating system are</p> <p>5 you running presently?</p> <p>6 <b>A. Windows 4.0, Windows 95, Windows</b></p> <p>7 <b>2000, Windows 2000 server, Windows server 2003,</b></p> <p>8 <b>Windows server 2003R2, Windows XP, Windows Vista</b></p> <p>9 <b>I think those are all the ones we are running.</b></p> <p>10 Q. Okay.</p> <p>11 Have -- has News America Marketing</p> <p>12 been a Windows -- has News America Marketing used</p> <p>13 a Windows environment since 2000?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. Okay.</p> <p>16 Has there been any other operating</p> <p>17 system that you know of or that pre-dates you?</p> <p>18 Linux, for example?</p> <p>19 <b>A. From a Windows perspective the</b></p> <p>20 <b>only other item would be Windows 351.</b></p> <p>21 Q. But News America Marketing has</p> <p>22 been an entity that uses a Windows environment</p>
<p style="text-align: right;">31</p> <p>1 <b>A. There is no policy to that effect.</b></p> <p>2 Q. Okay.</p> <p>3 Do you know what happens as a</p> <p>4 general rule by virtue of your job</p> <p>5 responsibilities?</p> <p>6 MR. KATZ: Objection.</p> <p>7 <b>A. The data is presented to --</b></p> <p>8 <b>actually the manager gets involved and decides</b></p> <p>9 <b>whether or not they want to keep the data on the</b></p> <p>10 <b>disk.</b></p> <p>11 Q. If data is kept where is it kept?</p> <p>12 <b>A. It's given to the manager.</b></p> <p>13 Q. Okay.</p> <p>14 Is it -- in what form is it given?</p> <p>15 Optimal disk or tape?</p> <p>16 <b>A. It all depends on the manager.</b></p> <p>17 <b>They may ask us to burn it to CD. They may ask</b></p> <p>18 <b>us to drop it in their home directory. They may</b></p> <p>19 <b>ask us to hold it there for a new employee that's</b></p> <p>20 <b>coming in. It all depends on what the manager</b></p> <p>21 <b>would like us to do with it. It's at the</b></p> <p>22 <b>manager's discretion.</b></p>	<p style="text-align: right;">33</p> <p>1 whatever Windows version that is for as long as</p> <p>2 you know?</p> <p>3 <b>A. Uh-huh.</b></p> <p>4 Q. Is that a correct statement?</p> <p>5 <b>A. For as long as I know, correct.</b></p> <p>6 Q. Okay.</p> <p>7 <b>A. Which would be from 2000.</b></p> <p>8 Q. But you don't know of any other</p> <p>9 operating system that pre-dates you, do you?</p> <p>10 <b>A. Novell, but that's not a Windowing</b></p> <p>11 <b>environment, but I can't speak beyond Novell.</b></p> <p>12 Q. Got it.</p> <p>13 And --</p> <p>14 <b>A. These other -- oh, we also use</b></p> <p>15 <b>today outside of Windows Sun.</b></p> <p>16 Q. What's Sun used for? What</p> <p>17 applications?</p> <p>18 <b>A. It's an operating system that we</b></p> <p>19 <b>run our main -- several applications on.</b></p> <p>20 Q. Right.</p> <p>21 Do you know what applications are</p> <p>22 run off of Sun?</p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

10 (Pages 34 to 37)

<p style="text-align: right;">34</p> <p>1     <b>A. Oracle.</b></p> <p>2     Q. Okay. Is it mostly for</p> <p>3 accounting?</p> <p>4     <b>A. No.</b></p> <p>5     Q. Could you just tell me the purpose</p> <p>6 of the applications that run off of the Oracle</p> <p>7 database?</p> <p>8     <b>A. Our ERP system.</b></p> <p>9     Q. ERP stands for?</p> <p>10    <b>A. Enterprise -- I'm sorry, I don't</b></p> <p>11 <b>recall the acronym, but the line of applications</b></p> <p>12 <b>that are on the Sun platform would be our</b></p> <p>13 <b>financial systems, our line of business</b></p> <p>14 <b>applications, the in-store business, for example,</b></p> <p>15 <b>would be on there, our FSI business would be on</b></p> <p>16 <b>there.</b></p> <p>17    Q. When you say the business would be</p> <p>18 on there what do you mean?</p> <p>19    <b>A. The in-store business.</b></p> <p>20    Q. I don't know what you mean by</p> <p>21 that. I'm sorry. I don't mean to be obtuse.</p> <p>22    <b>A. The application --</b></p>	<p style="text-align: right;">36</p> <p>1     <b>A. -- because you're asking me what</b></p> <p>2 <b>Windows software runs at the server level. I</b></p> <p>3 <b>mean Windows server runs at the server level. So</b></p> <p>4 <b>I guess --</b></p> <p>5     Q. But you run Outlook from the</p> <p>6 server, don't you?</p> <p>7     <b>A. No. You run that from a desktop.</b></p> <p>8     Q. That's my question then.</p> <p>9         So the only application on the</p> <p>10 server is the server application itself? No</p> <p>11 software resides on the server other than server</p> <p>12 level software, in other words --</p> <p>13    <b>A. No.</b></p> <p>14    Q. -- Office and --</p> <p>15    <b>A. In some instances Office is</b></p> <p>16 <b>installed on the server to fit end user's needs.</b></p> <p>17 <b>So let's say, for instance, there's a user that</b></p> <p>18 <b>does not have Microsoft Office on their computer</b></p> <p>19 <b>that can use it off of the server.</b></p> <p>20    Q. Right.</p> <p>21    <b>A. So --</b></p> <p>22    Q. Okay.</p>
<p style="text-align: right;">35</p> <p>1     Q. Financials, all of their</p> <p>2 applications?</p> <p>3     <b>A. I don't know. That you're going</b></p> <p>4 <b>to have to take up with PJ. I don't -- all I</b></p> <p>5 <b>know is that the in-store business what our sales</b></p> <p>6 <b>reps used to enter orders, order management</b></p> <p>7 <b>system.</b></p> <p>8     Q. Okay. That helps.</p> <p>9         In terms of internal and external</p> <p>10 communication E-mail, for instance, that's done</p> <p>11 from a Windows environment?</p> <p>12    <b>A. That's correct.</b></p> <p>13    Q. Okay.</p> <p>14         Can you tell me what software,</p> <p>15 what Windows software is run on the server level</p> <p>16 at News America Marketing? And if that's going</p> <p>17 to require you to speak for the next twenty</p> <p>18 minutes I'm going to withdraw the question. I'll</p> <p>19 let you know right now.</p> <p>20    <b>A. I was going to ask you to rephrase</b></p> <p>21 <b>the question because --</b></p> <p>22    Q. Yeah, in other words --</p>	<p style="text-align: right;">37</p> <p>1         Do you have remote access?</p> <p>2    <b>A. Yes.</b></p> <p>3    Q. Okay.</p> <p>4         Is that stored on the server?</p> <p>5         It's got to be.</p> <p>6    <b>A. No. Well, remote access is</b></p> <p>7 <b>governed by the network, not necessarily the</b></p> <p>8 <b>server. The servers provide the application.</b></p> <p>9    Q. Right.</p> <p>10    <b>A. Regardless of whether you're on</b></p> <p>11 <b>our network or if you are connecting in remotely.</b></p> <p>12    Q. Okay.</p> <p>13         What remote access application</p> <p>14 does News America presently use?</p> <p>15         MR. KATZ: Do you understand the</p> <p>16 question?</p> <p>17    <b>A. Cisco VPN.</b></p> <p>18    Q. Okay.</p> <p>19         Is that application the same</p> <p>20 application that was in use in 2000 when you</p> <p>21 joined the company?</p> <p>22    <b>A. No.</b></p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

11 (Pages 38 to 41)

<p style="text-align: right;">38</p> <p>1 Q. What was being used back then?</p> <p>2 A. <b>Nortel.</b></p> <p>3 Q. What version?</p> <p>4 A. <b>Do not remember. Do not recall.</b></p> <p>5 Q. When did you switch over from</p> <p>6 Nortel to Cisco VPN?</p> <p>7 A. <b>Do not recall.</b></p> <p>8 Q. Was it during your tenure?</p> <p>9 A. <b>Yes.</b></p> <p>10 Q. Obviously.</p> <p>11 A. <b>(Indicating.)</b></p> <p>12 Q. Okay.</p> <p>13 What software or applications are</p> <p>14 used at News America Marketing? Can you list</p> <p>15 them for me? Windows I'm talking about.</p> <p>16 A. <b>It's going to take twenty minutes.</b></p> <p>17 Q. It is. Well, let me ask you</p> <p>18 some -- then let me ask you some questions that</p> <p>19 matter to me, okay?</p> <p>20 Do you use Outlook?</p> <p>21 A. <b>Yes.</b></p> <p>22 Q. Okay.</p>	<p style="text-align: right;">40</p> <p>1 What's the IM application?</p> <p>2 A. <b>Windows Messenger.</b></p> <p>3 MR. KATZ: Alfred, this is off the</p> <p>4 record.</p> <p>5 (Whereupon, a discussion is held</p> <p>6 off the record.)</p> <p>7 MR. PETERS: Let's go back on the</p> <p>8 record.</p> <p>9</p> <p>10 BY MR. PETERS:</p> <p>11 Q. So we were talking about Windows</p> <p>12 applications that can be used to communicate</p> <p>13 internally. One of them is Outlook and that's</p> <p>14 E-mail. The other is IM Messenger, okay.</p> <p>15 Are there other Windows</p> <p>16 applications that are generally used for internal</p> <p>17 communication?</p> <p>18 A. <b>Live Meeting.</b></p> <p>19 Q. Live Meeting?</p> <p>20 A. <b>Uh-huh.</b></p> <p>21 Q. Anything else?</p> <p>22 A. <b>For person to person communication</b></p>
<p style="text-align: right;">39</p> <p>1 Do you use Word?</p> <p>2 A. <b>Yes.</b></p> <p>3 Q. Do you use PowerPoint?</p> <p>4 A. <b>Yes.</b></p> <p>5 Q. Do you use Excel?</p> <p>6 A. <b>Yes.</b></p> <p>7 Q. Okay.</p> <p>8 Do you use any other type of Word</p> <p>9 application for communicating --</p> <p>10 Pardon me.</p> <p>11 Do you use any other Windows</p> <p>12 application for communicating internally other</p> <p>13 than Outlook?</p> <p>14 A. <b>Define communicating.</b></p> <p>15 Q. If I want to ask you a question</p> <p>16 electronically --</p> <p>17 A. <b>Okay.</b></p> <p>18 Q. -- I can E-mail you?</p> <p>19 A. <b>That's correct.</b></p> <p>20 Q. Can I IM you?</p> <p>21 A. <b>Yes, you can.</b></p> <p>22 Q. Okay.</p>	<p style="text-align: right;">41</p> <p>1 <b>I think that covers it.</b></p> <p>2 Q. Do you presently do Web meetings?</p> <p>3 A. <b>That's Live Meeting.</b></p> <p>4 Q. That's Live Meeting. Okay.</p> <p>5 Were there other applications used</p> <p>6 for internal communications that have been</p> <p>7 decommissioned during your tenure?</p> <p>8 A. <b>No.</b></p> <p>9 Q. Okay.</p> <p>10 So at all times since 2000 Outlook</p> <p>11 has been the E-mail application?</p> <p>12 A. <b>Correct.</b></p> <p>13 Q. And IM Messenger has been the</p> <p>14 application for instant messaging?</p> <p>15 A. <b>Not since 2000, but yes.</b></p> <p>16 Q. Okay.</p> <p>17 When did that start, the IM</p> <p>18 Messenger?</p> <p>19 A. <b>I don't recall.</b></p> <p>20 Q. Okay.</p> <p>21 A. <b>I don't recall.</b></p> <p>22 Q. Okay.</p>



McBean, Jr., Alfred A.

March 27, 2007

New York, NY

12 (Pages 42 to 45)

<p style="text-align: right;">42</p> <p>1 Is Outlook backed up?</p> <p>2 <b>A. No.</b></p> <p>3 Q. Is IM Messenger backed up?</p> <p>4 <b>A. The server is backed up, but the</b></p> <p>5 <b>data that goes through the server is not.</b></p> <p>6 Q. Differentiate that for me.</p> <p>7 <b>A. The conversations are not backed</b></p> <p>8 <b>up, they are not recorded.</b></p> <p>9 Q. Okay.</p> <p>10 And the E-mail itself, the Outlook</p> <p>11 E-mail itself, that's not backed up?</p> <p>12 <b>A. That is backed up. Well, Exchange</b></p> <p>13 <b>is a server. So the Exchange server is backed</b></p> <p>14 <b>up.</b></p> <p>15 Q. Okay.</p> <p>16 <b>A. But Outlook is not backed up.</b></p> <p>17 Q. So E-mail itself, the</p> <p>18 communications are saved for some period of time?</p> <p>19 <b>A. Mail that flows through the</b></p> <p>20 <b>Exchange servers are backed up.</b></p> <p>21 Q. Okay.</p> <p>22 And Live Meeting, is there any</p>	<p style="text-align: right;">44</p> <p>1 that are used presently?</p> <p>2 <b>A. Project is the only one that I'm</b></p> <p>3 <b>aware of.</b></p> <p>4 Q. How long has Project been in use?</p> <p>5 <b>A. I don't know. I don't know.</b></p> <p>6 Q. Has it been around since you</p> <p>7 joined the company in 2000?</p> <p>8 <b>A. Project has been around since I've</b></p> <p>9 <b>joined the company in 2000, however, I cannot</b></p> <p>10 <b>speak to how long or who uses it.</b></p> <p>11 Q. And is that data backed up?</p> <p>12 <b>A. If the Project documents are</b></p> <p>13 <b>stored on our file servers then, yes, that would</b></p> <p>14 <b>be backed up.</b></p> <p>15 Q. Do you use Primavera or Microsoft</p> <p>16 Visio, V-i-s-i-o?</p> <p>17 <b>A. Visio.</b></p> <p>18 Q. Visio? Pardon me.</p> <p>19 <b>A. Visio we do use.</b></p> <p>20 Q. Okay.</p> <p>21 <b>A. What was the first one?</b></p> <p>22 Q. Primavera?</p>
<p style="text-align: right;">43</p> <p>1 backup of that data?</p> <p>2 <b>A. I don't back that up. That's a</b></p> <p>3 <b>hosted solution provided by Microsoft.</b></p> <p>4 Q. Right.</p> <p>5 So it's not -- it doesn't reside</p> <p>6 on the server for any period of time?</p> <p>7 <b>A. Doesn't reside -- it's not even</b></p> <p>8 <b>here. I don't manage it or maintain it. We pay</b></p> <p>9 <b>for that service.</b></p> <p>10 Q. All right. Understood.</p> <p>11 What is the accounting, Windows</p> <p>12 accounting application or applications that are</p> <p>13 used?</p> <p>14 <b>A. QuickBooks or it might be Quicken</b></p> <p>15 <b>if they're the same thing. That's the only thing</b></p> <p>16 <b>from an accounting perspective that I recall.</b></p> <p>17 Q. Okay.</p> <p>18 Is there any project planning</p> <p>19 software used like Microsoft Project?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Okay.</p> <p>22 What are the planning applications</p>	<p style="text-align: right;">45</p> <p>1 <b>A. I'm not familiar with that one.</b></p> <p>2 Q. Okay.</p> <p>3 And Visio is used for project</p> <p>4 planning?</p> <p>5 <b>A. Visio is used for diagramming</b></p> <p>6 <b>which is I guess a form of project planning so</b></p> <p>7 <b>you can see what your before and after results</b></p> <p>8 <b>are.</b></p> <p>9 Q. Okay.</p> <p>10 <b>A. It's also used for flow charting</b></p> <p>11 <b>which is obviously part of project planning.</b></p> <p>12 Q. Are there any News America</p> <p>13 Marketing specific applications that are run on</p> <p>14 the desktop only, systems that have been</p> <p>15 developed directly only for News America</p> <p>16 Marketing that run in a Windows environment?</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. Okay.</p> <p>19 Are any of those applications used</p> <p>20 for communicating back and forth or can they be?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. Could you tell me what those</p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

13 (Pages 46 to 49)

<p style="text-align: right;">46</p> <p>1 applications are called?</p> <p>2 <b>A. Our ordinary management</b></p> <p>3 <b>application. In-store order management</b></p> <p>4 <b>application.</b></p> <p>5 Q. Okay.</p> <p>6 <b>A. Our FSI application.</b></p> <p>7 Q. What's that stand for?</p> <p>8 <b>A. Freestanding insert.</b></p> <p>9 Q. What's that for?</p> <p>10 <b>A. It's for the -- the education on</b></p> <p>11 <b>the company, but the freestanding inserts is for</b></p> <p>12 <b>the SmartSource coupons that are in the Sunday</b></p> <p>13 <b>newspapers.</b></p> <p>14 Q. Okay.</p> <p>15 <b>A. So that's the order management</b></p> <p>16 <b>system.</b></p> <p>17 Q. Any other enterprise systems?</p> <p>18 <b>A. Our field system.</b></p> <p>19 Q. Field?</p> <p>20 <b>A. Yeah.</b></p> <p>21 Q. What is that?</p> <p>22 <b>A. Our field system manages our field</b></p>	<p style="text-align: right;">48</p> <p>1 Marketing for communicating?</p> <p>2 <b>A. Our Oracle system which is our</b></p> <p>3 <b>financial system. Our actuate reporting system.</b></p> <p>4 <b>Our global reporting system.</b></p> <p>5 Q. And this is reporting on what?</p> <p>6 Financial results?</p> <p>7 <b>A. Business results. It all depends</b></p> <p>8 <b>on what data folks are going after.</b></p> <p>9 Q. Okay.</p> <p>10 Does that cover it?</p> <p>11 <b>A. No. There's Smart Matrix.</b></p> <p>12 Q. What is that?</p> <p>13 <b>A. That's our customer interface</b></p> <p>14 <b>system. Our customers do event planning I</b></p> <p>15 <b>believe with that system. I've never been asked</b></p> <p>16 <b>to list them all out so just give me a second if</b></p> <p>17 <b>you need all of them.</b></p> <p>18 Q. No, that's another rule. Take as</p> <p>19 much time as you need. And I'm not looking for</p> <p>20 every application, you know, just to remind you</p> <p>21 and maybe put a finer point on it, I'm really</p> <p>22 looking for applications that are used to</p>
<p style="text-align: right;">47</p> <p>1 <b>force for the in-store management system. So</b></p> <p>2 <b>when we say put a coupon machine here, we have</b></p> <p>3 <b>people that go out and do that. So that system</b></p> <p>4 <b>manages that body of people.</b></p> <p>5 Q. How does it do that? In other</p> <p>6 words, what's the -- is it a -- does it</p> <p>7 communicate an order to someone in the field?</p> <p>8 <b>A. Correct.</b></p> <p>9 Q. And when it is communicated where</p> <p>10 is it received? On a handheld device?</p> <p>11 <b>A. Yes, but there are some orders</b></p> <p>12 <b>that are received via computer and then printed</b></p> <p>13 <b>to paper.</b></p> <p>14 Q. All right.</p> <p>15 But that's all directing your</p> <p>16 field representatives on what to do, is that a</p> <p>17 fair sort of thirty thousand foot view of that</p> <p>18 application?</p> <p>19 <b>A. It's communication.</b></p> <p>20 Q. Okay.</p> <p>21 What other legacy or, pardon me,</p> <p>22 enterprise applications are used at News America</p>	<p style="text-align: right;">49</p> <p>1 communicate internally where someone from Chicago</p> <p>2 might communicate with someone from Boston or New</p> <p>3 York.</p> <p>4 <b>A. If it's person to person --</b></p> <p>5 Q. That's really what I'm looking</p> <p>6 for.</p> <p>7 <b>A. -- then these systems don't</b></p> <p>8 <b>communicate person to person.</b></p> <p>9 Q. Okay.</p> <p>10 <b>A. Because they communicate problems</b></p> <p>11 <b>and issues from an order perspective or from an</b></p> <p>12 <b>accounting perspective.</b></p> <p>13 Q. Right.</p> <p>14 <b>A. And those systems then E-mail, you</b></p> <p>15 <b>know, internal custodians on there's an issue or</b></p> <p>16 <b>problem that needs to be vetted.</b></p> <p>17 Q. Uh-huh. Okay.</p> <p>18 MR. KATZ: Kevin, can you take a</p> <p>19 break for a second?</p> <p>20 MR. PETERS: Sure.</p> <p>21 (Whereupon, a short recess is</p> <p>22 taken.)</p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

14 (Pages 50 to 53)

<p style="text-align: right;">50</p> <p>1 MR. PETERS: Let's go back on the</p> <p>2 record.</p> <p>3</p> <p>4 BY MR. PETERS:</p> <p>5 Q. We were talking before we broke</p> <p>6 about applications used to communicate and you</p> <p>7 were good enough to give me a list of</p> <p>8 applications that are used for communicating</p> <p>9 orders, for communicating accounting information.</p> <p>10 They were the order management software, the</p> <p>11 field system software, et cetera. I want to</p> <p>12 refocus my question a little bit.</p> <p>13 The only software I'm interested</p> <p>14 in at the moment is software where one person in</p> <p>15 the company communicates with another person in</p> <p>16 the company. And you've listed a few, Outlook,</p> <p>17 IM and Live Meeting.</p> <p>18 Are there other applications that</p> <p>19 employees use to speak with employees one-on-one?</p> <p>20 A. One-on-one, yeah. The Field</p> <p>21 Handheld System would be the only additional</p> <p>22 where there is a one-on-one action there.</p>	<p style="text-align: right;">52</p> <p>1 A. Yes, there is.</p> <p>2 Q. Is it digital?</p> <p>3 A. I don't know.</p> <p>4 Q. Do you know if it's backed up?</p> <p>5 Let me ask the first question: Does the voice</p> <p>6 mail reside on the server?</p> <p>7 A. I'm sure it resides within the</p> <p>8 telephone system, but I don't manage the</p> <p>9 telephone system.</p> <p>10 Q. Okay.</p> <p>11 So you don't know whether or not</p> <p>12 that data is backed up, voice mail?</p> <p>13 A. I do not believe it is, but I</p> <p>14 don't manage that system.</p> <p>15 Q. Okay. Who does?</p> <p>16 A. Victor Sinanski.</p> <p>17 Q. Spell his last name, please.</p> <p>18 A. S-i-n-a-n-s-k-i.</p> <p>19 Q. Are there contact managers used</p> <p>20 such as ACT or Goldmine?</p> <p>21 A. I haven't heard that name in</p> <p>22 years. I believe that was used, but I don't</p>
<p style="text-align: right;">51</p> <p>1 Q. And what is that?</p> <p>2 A. It allows the field rep to speak</p> <p>3 to their managers and support to talk about</p> <p>4 installation issues or problems.</p> <p>5 Q. Do News America employees or any</p> <p>6 segment of them, News America Marketing</p> <p>7 employees, have Blackberries or other types of</p> <p>8 handheld devices?</p> <p>9 A. Yes.</p> <p>10 Q. Is that something that is given</p> <p>11 out to management?</p> <p>12 A. Upon request, yes.</p> <p>13 Q. Okay.</p> <p>14 Was that the case in 2000 as well?</p> <p>15 A. In 2000 Blackberry technology</p> <p>16 wasn't used.</p> <p>17 Q. Was there any other type of remote</p> <p>18 communication device used for data such as E-mail</p> <p>19 when you joined the company in 2000?</p> <p>20 A. Not that I was aware of, no.</p> <p>21 Q. Is there voice mail at News</p> <p>22 America Marketing?</p>	<p style="text-align: right;">53</p> <p>1 remember by who, but that's going back many years</p> <p>2 ago.</p> <p>3 Q. Okay.</p> <p>4 I'm interested now back in 2000</p> <p>5 when you joined the company was there a contact</p> <p>6 manager that was generally used, ACT, Goldmine or</p> <p>7 anything else?</p> <p>8 A. ACT rings a bell with me, but I</p> <p>9 can't conclusively say who used it.</p> <p>10 Q. Do you recall whether or not there</p> <p>11 was any contact manager that was used on a</p> <p>12 company-wide basis?</p> <p>13 A. There was a homegrown contact</p> <p>14 manager system that interfaced with Outlook and</p> <p>15 my recollection was to, it was to help I don't</p> <p>16 want to use the word consolidate, help the end</p> <p>17 users manage their contacts as opposed to going</p> <p>18 out to applications like an ACT or Intellisync or</p> <p>19 all the different versions of managing contacts.</p> <p>20 Q. Okay.</p> <p>21 Were there applications used to</p> <p>22 keep notes of conversations and reminders of</p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

15 (Pages 54 to 57)

<p style="text-align: right;">54</p> <p>1 meetings?</p> <p>2 <b>A. We provide a series of</b></p> <p>3 <b>applications. I don't know if they were actually</b></p> <p>4 <b>used. I mean obviously there's -- there's the</b></p> <p>5 <b>Microsoft Office products. There's, you know,</b></p> <p>6 <b>Outlook which keeps notes as well.</b></p> <p>7 Q. Okay.</p> <p>8 Was that the case in 2000 when you</p> <p>9 joined the company?</p> <p>10 <b>A. That is correct.</b></p> <p>11 Q. Okay.</p> <p>12 But there's no one application</p> <p>13 that was used on an enterprise-wide basis for</p> <p>14 maintaining notes of communications with</p> <p>15 contacts?</p> <p>16 <b>A. Not that I'm aware of, no, there</b></p> <p>17 <b>wasn't.</b></p> <p>18 Q. And the homegrown application, did</p> <p>19 it have a name?</p> <p>20 <b>A. I want to say it was the sales</b></p> <p>21 <b>call reporting system. They used it to manage</b></p> <p>22 <b>contacts for, you know, all prospects and client</b></p>	<p style="text-align: right;">56</p> <p>1 Q. Okay.</p> <p>2 Is Siebel the customer management</p> <p>3 application presently used?</p> <p>4 <b>A. That is correct.</b></p> <p>5 Q. Does it have a version that you</p> <p>6 can tell me about?</p> <p>7 <b>A. It's version 7 something. I don't</b></p> <p>8 <b>know the exact version number.</b></p> <p>9 Q. Okay.</p> <p>10 And that is a server side</p> <p>11 application?</p> <p>12 <b>A. It's a client and server side.</b></p> <p>13 Q. Okay.</p> <p>14 And it's backed up, data is backed</p> <p>15 up when the servers are backed up?</p> <p>16 <b>A. That is correct.</b></p> <p>17 Q. Do you, that is does News America</p> <p>18 Marketing have a document management system such</p> <p>19 as CDoCs or iManage?</p> <p>20 <b>A. No.</b></p> <p>21 Q. Is there a document retention</p> <p>22 policy that covers both electronic documents and</p>
<p style="text-align: right;">55</p> <p>1 <b>prospects, customers.</b></p> <p>2 Q. Was that retired?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. When was that?</p> <p>5 <b>A. Don't recall the exact date.</b></p> <p>6 Q. Was it replaced by some other</p> <p>7 functionality?</p> <p>8 <b>A. Siebel.</b></p> <p>9 Q. Spell that. C-e --</p> <p>10 <b>A. S-i-e-b-e-l.</b></p> <p>11 Q. Okay.</p> <p>12 <b>A. Siebel.</b></p> <p>13 Q. And that's a Windows application?</p> <p>14 <b>A. Correct.</b></p> <p>15 Q. What's its function?</p> <p>16 <b>A. It's our customer relationship</b></p> <p>17 <b>management application.</b></p> <p>18 Q. And was information from the sales</p> <p>19 call reporting system migrated to Siebel when</p> <p>20 that system went online?</p> <p>21 <b>A. I don't know. I did not manage</b></p> <p>22 <b>that engagement.</b></p>	<p style="text-align: right;">57</p> <p>1 paper documents?</p> <p>2 <b>A. Yes.</b></p> <p>3 Q. Are they different policies?</p> <p>4 <b>A. No.</b></p> <p>5 Q. Can you tell me the document</p> <p>6 retention policy for electronic documents?</p> <p>7 <b>A. The document retention policies go</b></p> <p>8 <b>into how long you should hold financial</b></p> <p>9 <b>information for, HR information, contracts.</b></p> <p>10 <b>That's all I can recall.</b></p> <p>11 Q. Is there a document retention</p> <p>12 policy that covers E-mail?</p> <p>13 <b>A. Not explicitly.</b></p> <p>14 Q. Is there one that implicitly</p> <p>15 pertains to E-mail?</p> <p>16 MR. KATZ: Objection.</p> <p>17 <b>A. Policy as far as personal use, the</b></p> <p>18 <b>policies do provide a guideline on how much</b></p> <p>19 <b>personal use is allowed by an employee and other</b></p> <p>20 <b>types of conduct uses of the E-mail.</b></p> <p>21 Q. Okay.</p> <p>22 I'm more interested in the</p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

16 (Pages 58 to 61)

<p style="text-align: right;">58</p> <p>1 retention policy, not the use policy. In other  2 words, is there a policy that covers how long  3 E-mail is retained by News America?  4 MR. KATZ: Kevin, can I ask are you  5 asking for the time period when your clients were  6 associated with News America Marketing?  7 MR. PETERS: Yeah.  8 MR. KATZ: Do you want to limit it  9 to that?  10 MR. PETERS: Why don't we do that.  11  12 BY MR. PETERS:  13 Q. Which would be -- well, for your  14 perspective it would be 2000 until 2004.  15 MR. KATZ: 2004. I think September  16 2004.  17 A. <b>There are no policies in place.</b>  18 Q. So everyone kept his or her own  19 E-mail as he or she saw fit?  20 A. <b>Correct.</b>  21 Q. There was no policy that said  22 delete your deleted E-mail, delete your sent</p>	<p style="text-align: right;">60</p> <p>1 <b>reaches the next threshold then the mailbox is,</b>  2 <b>the ability to send E-mail is disallowed and then</b>  3 <b>if it hits the third threshold then the mailbox</b>  4 <b>shuts off.</b>  5 Q. What are the thresholds? Is  6 eighty meg the first?  7 A. <b>I think eighty meg is the last.</b>  8 <b>So the first threshold I want to say is around</b>  9 <b>seventy megs is the warning and then seventy-five</b>  10 <b>is the, stops the sending. However, it's a</b>  11 <b>guideline that we used. It's the default</b>  12 <b>setting.</b>  13 Q. Okay.  14 There were ways to -- there were  15 ways around the setting?  16 A. <b>Uh-huh.</b>  17 Q. And that could be done on an  18 individual-by-individual basis?  19 A. <b>Correct.</b>  20 Q. And so if someone wanted to exceed  21 the limit they would approach you or some  22 administrator?</p>
<p style="text-align: right;">59</p> <p>1 E-mail, delete your in-box?  2 A. <b>Correct.</b>  3 Q. In any amount of time?  4 Were employees limited to an  5 amount of E-mail that they could store on their  6 desktops?  7 A. <b>Yes.</b>  8 Q. Okay.  9 What was the limit?  10 A. <b>On their desktops they had no</b>  11 <b>limit. On the servers the limit was, and again</b>  12 <b>it differed by employee, but the general limit,</b>  13 <b>it was about eighty meg.</b>  14 Q. Okay.  15 And did the server automatically  16 purge E-mail?  17 A. <b>No.</b>  18 Q. How did the policy get enforced,  19 the eighty meg policy? Was there a rule?  20 A. <b>Yeah, there's a rule that if the</b>  21 <b>mailbox reached a particular threshold that</b>  22 <b>warning messages are sent. Once the E-mail</b></p>	<p style="text-align: right;">61</p> <p>1 A. <b>They would approach an</b>  2 <b>administrator on my team or a manager depending</b>  3 <b>on who would then present either can you increase</b>  4 <b>my limit or a business case on why they need to</b>  5 <b>have their limits increased.</b>  6 Q. Okay, but there was no limit on  7 what could be stored on the desktop other than,  8 of course, the disk size?  9 A. <b>Correct.</b>  10 Q. Now, but if they wanted to store  11 their E-mail on their C drive they would have to  12 migrate it over?  13 A. <b>Outlook has a provision to create</b>  14 <b>what's called a personal storage file where you</b>  15 <b>can move mail from the Exchange server to the</b>  16 <b>personal, to your personal folders and there was</b>  17 <b>no limitation of it as far as how many personal</b>  18 <b>folders a user could have on their desktop.</b>  19 Q. Okay.  20 I haven't done it, but it's a drag  21 application?  22 A. <b>They can drag it or they can tell</b></p>



McBean, Jr., Alfred A.

March 27, 2007

New York, NY

17 (Pages 62 to 65)

<p style="text-align: right;">62</p> <p>1 Outlook to just copy all the E-mail from the</p> <p>2 server and put it into a personal folder.</p> <p>3 Q. Okay.</p> <p>4 When -- when archives at News</p> <p>5 America Marketing, when archives is E-mailed is</p> <p>6 that archived to the C drive?</p> <p>7 A. By definition they're storing it</p> <p>8 on their C drive. Whether they choose to archive</p> <p>9 it that's on them. If they're holding it for</p> <p>10 their own personal reasons, that's at the user's</p> <p>11 discretion.</p> <p>12 Q. Right.</p> <p>13 But you can set up your Outlook to</p> <p>14 archive automatically periodically?</p> <p>15 A. Yeah, that would be at the user's</p> <p>16 discretion.</p> <p>17 Q. And when that's done that's</p> <p>18 archived on the desktop side, not the server</p> <p>19 side, correct?</p> <p>20 A. That is correct.</p> <p>21 Q. There's no limitation on how much</p> <p>22 you can archive?</p>	<p style="text-align: right;">64</p> <p>1 contract.</p> <p>2 MR. KATZ: Don't guess.</p> <p>3 MR. LIPPNER: Are you guessing?</p> <p>4 A. I can't tell you verbatim unless I</p> <p>5 see the actual document.</p> <p>6</p> <p>7 BY MR. PETERS:</p> <p>8 Q. Let me suggest to you that it's</p> <p>9 for the statute of limitations.</p> <p>10 I'm kidding, but, yeah, no, that's</p> <p>11 fine.</p> <p>12 Again, the policy pertains to both</p> <p>13 electronic documents and paper documents.</p> <p>14 There's no differentiation as far as you know?</p> <p>15 A. That is my opinion. I mean</p> <p>16 regardless if it's paper or electronic, if it's</p> <p>17 an HR-related document regardless if it's in</p> <p>18 electronic form or paper form it still has to be</p> <p>19 maintained.</p> <p>20 Q. Okay.</p> <p>21 And is there any automatic purging</p> <p>22 of E-mail set up on the server side?</p>
<p style="text-align: right;">63</p> <p>1 A. No, there isn't.</p> <p>2 Q. And that was the case in 2000 when</p> <p>3 you joined, correct?</p> <p>4 A. That is correct.</p> <p>5 Q. That hasn't changed over time?</p> <p>6 A. No, it hasn't.</p> <p>7 Q. We were talking about the document</p> <p>8 retention policy and we drifted off to E-mail.</p> <p>9 The document retention policy that</p> <p>10 you are familiar with pertains to financials,</p> <p>11 human resources material, contracts. Does it</p> <p>12 pertain to anything else?</p> <p>13 A. I'm sure it does. I just don't</p> <p>14 have it in front of me to tell you verbatim what</p> <p>15 it pertains to.</p> <p>16 Q. Can you tell me in a general way</p> <p>17 what the document retention policy is regarding</p> <p>18 those types of documents?</p> <p>19 A. I want to say it's seven to ten</p> <p>20 years for financials. You know, seven to ten</p> <p>21 years for HR related stuff. Contracts I would</p> <p>22 imagine it's for at least the length of the</p>	<p style="text-align: right;">65</p> <p>1 A. No.</p> <p>2 Q. And again there's no automatic</p> <p>3 purging set up on the desktop side either?</p> <p>4 A. That's at the user's discretion.</p> <p>5 Q. In other words, there's no</p> <p>6 corporate policy on that?</p> <p>7 A. There's no corporate policy.</p> <p>8 Q. Okay.</p> <p>9 And is there any policy about</p> <p>10 renaming file extensions, in other words,</p> <p>11 changing a DOC to some other extension so that</p> <p>12 the documents move somewhere else or are visible</p> <p>13 when opened up?</p> <p>14 A. There is no policy for that.</p> <p>15 Q. Okay.</p> <p>16 In other words, let me put a finer</p> <p>17 point on my question which really shouldn't be</p> <p>18 hard.</p> <p>19 Word documents, the extension is</p> <p>20 DOC, Excel documents the extension is XLS.</p> <p>21 On a company-wide basis have you</p> <p>22 instructed employees not to change those</p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

18 (Pages 66 to 69)

<p style="text-align: right;">66</p> <p>1 extensions?</p> <p>2 <b>A. No, we have not.</b></p> <p>3 <b>Q. Okay.</b></p> <p>4 Does News America Marketing use</p> <p>5 data compression software.</p> <p>6 <b>A. Yes.</b></p> <p>7 <b>Q. Was that the case when you joined</b></p> <p>8 <b>the company in 2000?</b></p> <p>9 <b>A. Yes.</b></p> <p>10 <b>Q. What software is used for data</b></p> <p>11 <b>compression?</b></p> <p>12 <b>A. WinZip and WinRAR.</b></p> <p>13 <b>Q. Win?</b></p> <p>14 <b>A. W-i-n-R-A-R. Those are the two</b></p> <p>15 <b>that I am familiar with.</b></p> <p>16 <b>Q. What data is compressed typically?</b></p> <p>17 <b>A. Typically any -- well, any type of</b></p> <p>18 <b>data.</b></p> <p>19 <b>Q. Could be any.</b></p> <p>20 <b>When are these applications used</b></p> <p>21 <b>generally?</b></p> <p>22 <b>A. It's at the user's discretion.</b></p>	<p style="text-align: right;">68</p> <p>1 use presently for backing up and archiving data?</p> <p>2 <b>A. We --</b></p> <p>3 <b>MR. KATZ: You're asking for</b></p> <p>4 <b>multiple, any multiple softwares or different</b></p> <p>5 <b>functions?</b></p> <p>6 <b>MR. PETERS: Yeah.</b></p> <p>7 <b>Q. What applications are used to back</b></p> <p>8 <b>up the servers?</b></p> <p>9 <b>A. Backup Exec.</b></p> <p>10 <b>Q. E-x?</b></p> <p>11 <b>A. E-x-e-c.</b></p> <p>12 <b>Q. Okay. What version?</b></p> <p>13 <b>A. What time period?</b></p> <p>14 <b>Q. Presently.</b></p> <p>15 <b>A. 10, Version 10.</b></p> <p>16 <b>Q. Okay.</b></p> <p>17 <b>Was Backup Exec the application</b></p> <p>18 <b>used when you joined the company in 2000?</b></p> <p>19 <b>A. Yes.</b></p> <p>20 <b>Q. Okay. And are you aware of any</b></p> <p>21 <b>other applications used for backing up software</b></p> <p>22 <b>prior to News America Marketing's use of Backup</b></p>
<p style="text-align: right;">67</p> <p>1 <b>Q. Okay.</b></p> <p>2 <b>Does the data compression software</b></p> <p>3 <b>WinZip and WinRAR, does it reside at the server</b></p> <p>4 <b>level, the desktop level or both?</b></p> <p>5 <b>A. Both.</b></p> <p>6 <b>Q. Is data compression used for</b></p> <p>7 <b>backup?</b></p> <p>8 <b>A. Yes.</b></p> <p>9 <b>Q. Which application or applications</b></p> <p>10 <b>are used for data compression in backing up?</b></p> <p>11 <b>A. The tape backup programs have</b></p> <p>12 <b>compressionability in and also the tape backup</b></p> <p>13 <b>devices utilize compression for backup.</b></p> <p>14 <b>Q. What do they use?</b></p> <p>15 <b>A. The tape backup systems use</b></p> <p>16 <b>whatever is the quantum standard which is DLT and</b></p> <p>17 <b>SDLT and DAT, the compression standards that are</b></p> <p>18 <b>located in there. If there -- and also Backup</b></p> <p>19 <b>Exec has its own compression, if the tape device</b></p> <p>20 <b>for whatever reason can't do compression, it can</b></p> <p>21 <b>also compress data.</b></p> <p>22 <b>Q. Could you tell me what software is</b></p>	<p style="text-align: right;">69</p> <p>1 <b>Exec?</b></p> <p>2 <b>A. Yes.</b></p> <p>3 <b>Q. What application or applications?</b></p> <p>4 <b>A. This is a guess, but I believe it</b></p> <p>5 <b>was ARC Serve for the Novell servers.</b></p> <p>6 <b>Q. A-R-C?</b></p> <p>7 <b>A. A-R-C, ARC Serve.</b></p> <p>8 <b>Q. For Novell?</b></p> <p>9 <b>A. Novell. And presently today our</b></p> <p>10 <b>Oracle system, Sun Systems utilize Net Backup for</b></p> <p>11 <b>their backup, for their data backups.</b></p> <p>12 <b>Q. I'm sorry, say that again, please.</b></p> <p>13 <b>A. Net Backup, N-e-t, Backup, Net</b></p> <p>14 <b>Backup.</b></p> <p>15 <b>Q. Okay.</b></p> <p>16 <b>But the Windows applications</b></p> <p>17 <b>during the time that you have been involved with</b></p> <p>18 <b>managing that environment have been backed up</b></p> <p>19 <b>using Backup Exec?</b></p> <p>20 <b>A. Correct.</b></p> <p>21 <b>Q. Various versions of that now up to</b></p> <p>22 <b>Version 10?</b></p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

19 (Pages 70 to 73)

<p style="text-align: right;">70</p> <p>1       <b>A. That is correct.</b></p> <p>2       Q. Okay.</p> <p>3             And what are the machines that are</p> <p>4       used for backing up, what's the hardware?</p> <p>5       <b>A. Today we leverage Compaq DL360s.</b></p> <p>6       Q. Prior to moving to DL360s what was</p> <p>7       being used?</p> <p>8       <b>A. I don't recall the models, but it</b></p> <p>9       <b>was a mix between Dell and Compaq.</b></p> <p>10      Q. When did you move over to the</p> <p>11      Compaq DL360s?</p> <p>12      <b>A. I don't recall the actual dates.</b></p> <p>13      <b>They were done various, over the last six years.</b></p> <p>14      Q. Okay.</p> <p>15             And again these systems backed up</p> <p>16      in twenty locations?</p> <p>17      <b>A. No. In each of the locations,</b></p> <p>18      <b>again depending on year, either back --</b></p> <p>19      <b>maintained their own backup. In recent years</b></p> <p>20      <b>we've replicated data from the remote offices to</b></p> <p>21      <b>Wilton, Connecticut.</b></p> <p>22      Q. Okay.</p>	<p style="text-align: right;">72</p> <p>1       <b>do you need the each individual office?</b></p> <p>2       Q. No. I just -- other locations, in</p> <p>3       other words, I'm trying to understand</p> <p>4       generally --</p> <p>5       <b>A. They back up -- the Wilton office</b></p> <p>6       <b>backs up all offices in the United States that</b></p> <p>7       <b>are not New York and Chicago.</b></p> <p>8       Q. Okay.</p> <p>9             So backup, Wilton backs up Boston?</p> <p>10      <b>A. Wilton backs up Boston.</b></p> <p>11      Q. Okay.</p> <p>12             And how long has Wilton backed up</p> <p>13      Boston?</p> <p>14      <b>A. I'm going to say roughly two</b></p> <p>15      <b>years.</b></p> <p>16      Q. Okay.</p> <p>17             And prior to that did Boston back</p> <p>18      up its own data?</p> <p>19      <b>A. Yes.</b></p> <p>20      Q. And did it back up its own data</p> <p>21      using a Dell or a Compaq backup device?</p> <p>22      <b>A. Correct.</b></p>
<p style="text-align: right;">71</p> <p>1             So Wilton backs up for the other</p> <p>2      offices?</p> <p>3       <b>A. No. Only the offices that are</b></p> <p>4       <b>denoted as remote offices.</b></p> <p>5       Q. What are they?</p> <p>6       <b>A. All of our sales offices. So</b></p> <p>7       <b>Montreal, Mississauga. There are various sales</b></p> <p>8       <b>offices across the country that Wilton backs up.</b></p> <p>9       <b>Each of the core offices maintain their own</b></p> <p>10      <b>backups.</b></p> <p>11      Q. And those core offices are the</p> <p>12      twenty offices that you gave me earlier?</p> <p>13      <b>A. No, those are Wilton, Chicago, New</b></p> <p>14      <b>York and Toronto.</b></p> <p>15      Q. Okay. Those are the four core</p> <p>16      offices?</p> <p>17      <b>A. Those are the four core.</b></p> <p>18      Q. And Wilton backs up you said, for</p> <p>19      example, Mississauga and some other places?</p> <p>20      <b>A. Wilton backs up --</b></p> <p>21      Q. And I know this is presently.</p> <p>22      <b>A. Yeah, presently Wilton backs up --</b></p>	<p style="text-align: right;">73</p> <p>1       Q. Okay. And New York backs itself</p> <p>2      up?</p> <p>3       <b>A. Yes.</b></p> <p>4       Q. Okay.</p> <p>5             Does New York reach out to any of</p> <p>6      the remote offices and backup those offices?</p> <p>7       <b>A. This is where it gets a little</b></p> <p>8       <b>complicated. The remote sales offices probably</b></p> <p>9       <b>for a span of about two years prior to Wilton</b></p> <p>10      <b>managed their full backups which took -- which</b></p> <p>11      <b>took place once a week, the daily backups where</b></p> <p>12      <b>it could have been backed up by either Wilton,</b></p> <p>13      <b>New York or Chicago.</b></p> <p>14      Q. So there was a daily backup and a</p> <p>15      weekly backup, correct?</p> <p>16      <b>A. Uh-huh.</b></p> <p>17      Q. The daily backup of the remote</p> <p>18      offices was done from either Wilton, Chicago or</p> <p>19      New York?</p> <p>20      <b>A. Correct.</b></p> <p>21      Q. So Wilton, Chicago and New York</p> <p>22      had the ability to reach into --</p>



McBean, Jr., Alfred A.

March 27, 2007

New York, NY

20 (Pages 74 to 77)

<p style="text-align: right;">74</p> <p>1       <b>A. Correct.</b></p> <p>2       Q. -- those remote servers and backup</p> <p>3 that data?</p> <p>4       <b>A. Correct.</b></p> <p>5       Q. Okay.</p> <p>6             And was that also the case for</p> <p>7 Boston?</p> <p>8       <b>A. Rephrase the question.</b></p> <p>9       Q. Sure.</p> <p>10            Well, when I use Boston I guess I</p> <p>11 need to understand, is Boston considered a remote</p> <p>12 sales office?</p> <p>13       <b>A. Yes.</b></p> <p>14       Q. Okay. So Boston had a weekly</p> <p>15 backup --</p> <p>16       <b>A. Correct.</b></p> <p>17       Q. -- prior to two years ago?</p> <p>18       <b>A. Correct.</b></p> <p>19       Q. And Boston was also backed up</p> <p>20 daily, remotely?</p> <p>21       <b>A. When Boston was doing its weekly</b></p> <p>22 <b>backup it was backed up daily remotely.</b></p>	<p style="text-align: right;">76</p> <p>1             You can answer.</p> <p>2       <b>A. You need to rephrase. A backup</b></p> <p>3 <b>doesn't overwrite anything.</b></p> <p>4       Q. It just adds on?</p> <p>5             MR. KATZ: Objection.</p> <p>6       <b>A. I don't understand the question.</b></p> <p>7       Q. When you're backing up the data,</p> <p>8 you're backing up on to tape?</p> <p>9       <b>A. Right.</b></p> <p>10       Q. Okay.</p> <p>11            Are you overwriting data?</p> <p>12       <b>A. On the data?</b></p> <p>13       Q. Right.</p> <p>14       <b>A. Yes.</b></p> <p>15       Q. What are you overwriting?</p> <p>16       <b>A. The previous backup that was on</b></p> <p>17 <b>the tape.</b></p> <p>18       Q. Right. Okay.</p> <p>19            The backups in Boston that were</p> <p>20 done on a daily basis --</p> <p>21            Strike that.</p> <p>22            The backups of Boston that were</p>
<p style="text-align: right;">75</p> <p>1       Q. It was backed up daily remotely.</p> <p>2 It was backed up daily remotely either by</p> <p>3 Chicago, Wilton or New York.</p> <p>4       <b>A. Correct.</b></p> <p>5       Q. Okay.</p> <p>6            And what was backed up daily from</p> <p>7 Boston?</p> <p>8       <b>A. Differential data. So any data</b></p> <p>9 <b>that has changed since the full backup or the</b></p> <p>10 <b>weekend backup is backed up by one of the core</b></p> <p>11 <b>offices.</b></p> <p>12       Q. Okay.</p> <p>13       <b>A. So as an example the office does</b></p> <p>14 <b>their full backup on Friday. Monday night's</b></p> <p>15 <b>backup happens let's say out of Chicago. It's</b></p> <p>16 <b>only going to back up the delta between the full</b></p> <p>17 <b>backup which took place over the weekend and what</b></p> <p>18 <b>was changed on Monday.</b></p> <p>19       Q. Right. It doesn't overwrite the</p> <p>20 entire file, right? It just adds on to it? Or</p> <p>21 changes what's been changed?</p> <p>22            MR. KATZ: Objection.</p>	<p style="text-align: right;">77</p> <p>1 done on a daily basis, where were they kept?</p> <p>2       <b>A. New York, Wilton or Chicago.</b></p> <p>3       Q. And how long were they kept for?</p> <p>4       <b>A. No more than four to five weeks.</b></p> <p>5       Q. And then what happened to those</p> <p>6 tapes?</p> <p>7       <b>A. They were overwritten.</b></p> <p>8       Q. They were overwritten with another</p> <p>9 full backup?</p> <p>10       <b>A. No, with another -- with another</b></p> <p>11 <b>backup. I can't tell you if it was a full or a</b></p> <p>12 <b>differential backup, but another backup.</b></p> <p>13       Q. But you weren't overwriting -- you</p> <p>14 were archiving data -- let me put it this way:</p> <p>15 If someone had an E-mail in New York --</p> <p>16       <b>A. Okay.</b></p> <p>17       Q. -- and that E-mail was backed up</p> <p>18 from June of 2001, okay?</p> <p>19       <b>A. Okay.</b></p> <p>20       Q. Five weeks comes by, would that</p> <p>21 E-mail be backed up yet again if it still resided</p> <p>22 on the server?</p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

21 (Pages 78 to 81)

<p style="text-align: right;">78</p> <p>1       <b>A. Yes.</b>  2       <b>Q. Okay.</b>  3               So even though it's being  4       overwritten you're overwriting it with the same  5       E-mail?  6       <b>A. Correct.</b>  7       <b>Q. Okay.</b>  8               MR. PETERS: Let's go off the  9       record.  10              (Whereupon, the witness is  11       excused.)  12              (Whereupon, a luncheon recess is  13       taken at 12:16 p.m.)  14  15  16  17  18  19  20       AFTERNOON SESSION  21       (12:39 p.m.)  22              MR. PETERS: Let's go back on the</p>	<p style="text-align: right;">80</p> <p>1       <b>Q. How frequently?</b>  2       <b>A. Usually -- it's about weekly and</b>  3       <b>then we got them on to a three-week rotation and</b>  4       <b>then they went to a four-week rotation and then</b>  5       <b>as we progressed we finally got to the point</b>  6       <b>where one of the central offices, one of the core</b>  7       <b>offices would then manage the backup.</b>  8       <b>Q. Okay.</b>  9              Was a set of tapes archived that  10       was not overwritten as a matter of policy?  11       <b>A. For the remote offices they were</b>  12       <b>instructed to hold on to tapes, their fiscal and</b>  13       <b>their -- actually end of year tapes.</b>  14       <b>Q. Okay.</b>  15       <b>A. And in some cases it was done --</b>  16       <b>it wasn't a formal policy. Through, you know,</b>  17       <b>standardizing the organization we eventually got</b>  18       <b>there by taking on the responsibility of backing</b>  19       <b>up the remote offices.</b>  20       <b>Q. Okay.</b>  21              What is the policy for maintaining  22       a set of tapes that is not overwritten?</p>
<p style="text-align: right;">79</p> <p>1       record.  2  3       ALFRED A. McBEAN, JR.,  4       conducting business at News America Marketing,  5       20 Westport Road, 1st Floor, Wilton, Connecticut  6       06897, residing at 29 Thompson Street, Fairfield,  7       Connecticut 06825, having been previously duly  8       sworn or affirmed by a Notary Public within and  9       for the States of New York and New Jersey, resumed  10       and continued to testify further as follows:  11       CONTINUED EXAMINATION BY MR. PETERS:  12       <b>Q. Mr. McBean, we were discussing</b>  13       <b>backups and I want to get back into that now.</b>  14              In 2000 were offices backed up  15       daily and weekly?  16       <b>A. The remote offices were instructed</b>  17       <b>to backup daily. I don't have record of how well</b>  18       <b>they were doing their backups.</b>  19       <b>Q. Okay.</b>  20              And did they overwrite their tapes  21       as well?  22       <b>A. Yes.</b></p>	<p style="text-align: right;">81</p> <p>1       <b>A. We hold on to our year-end tapes</b>  2       <b>to keep us in line with the records retention</b>  3       <b>policy as far as holding on to, you know, our HR</b>  4       <b>and our financial records and stuff like that.</b>  5       <b>Q. Okay.</b>  6              But the year-end tapes are a full  7       backup of the server?  8       <b>A. Correct.</b>  9       <b>Q. So they would have all the E-mail,</b>  10       <b>for example, that was on the server at the time</b>  11       <b>of the year-end backup?</b>  12       <b>A. Correct.</b>  13       <b>Q. And where are those year-end tapes</b>  14       <b>maintained?</b>  15       <b>A. In various locations across the --</b>  16       <b>across different, either different cities and/or</b>  17       <b>hosting facilities.</b>  18       <b>Q. And is there a policy for</b>  19       <b>maintaining those year-end tapes for a period of</b>  20       <b>time?</b>  21       <b>A. Yes, it's in the record retention</b>  22       <b>policy.</b></p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

22 (Pages 82 to 85)

<p style="text-align: right;">82</p> <p>1 Q. How long are year-end tapes kept?</p> <p>2 A. Typically no more than seven</p> <p>3 years. Again, I have to refer to the policy.</p> <p>4 Q. Okay.</p> <p>5 Is that your disaster recovery,</p> <p>6 those year-end tapes or is there some other form</p> <p>7 of disaster recovery tape?</p> <p>8 A. Our disaster recovery tapes are</p> <p>9 daily tapes that we backup daily. So if there is</p> <p>10 an emergency where we have to do a recovery we</p> <p>11 can go back to our daily tapes to do the</p> <p>12 recovery.</p> <p>13 Q. Okay.</p> <p>14 Is there any backing up to some</p> <p>15 remote site, you know, a co-location facility,</p> <p>16 for example?</p> <p>17 A. No, we don't back up to a</p> <p>18 co-location, but our co-location site does have a</p> <p>19 backup to back up the data that's in the</p> <p>20 co-location.</p> <p>21 Q. Okay.</p> <p>22 A. We don't have a DR site from a</p>	<p style="text-align: right;">84</p> <p>1 you.</p> <p>2 Q. And the tapes, are they -- the</p> <p>3 annual tapes, are they large capacity tapes?</p> <p>4 A. Varies. Recent years, yes,</p> <p>5 they're large capacity.</p> <p>6 Q. Are they DLT, LTO? What are they?</p> <p>7 A. They're DLT and SDLT.</p> <p>8 Q. And what were they when you</p> <p>9 started back in 2000?</p> <p>10 A. DLT.</p> <p>11 Q. Okay.</p> <p>12 MR. PETERS: Gordy, we may be</p> <p>13 talking about those tapes and we may be coming up</p> <p>14 on seven years. So I assume that there's a</p> <p>15 provision in place that these tapes are not</p> <p>16 being -- these annual tapes are not being</p> <p>17 destroyed?</p> <p>18 MR. KATZ: Ask the witness.</p> <p>19</p> <p>20 BY MR. PETERS:</p> <p>21 Q. Will you keep these annual tapes</p> <p>22 and not destroy them?</p>
<p style="text-align: right;">83</p> <p>1 co-location perspective.</p> <p>2 Q. Where is the co-lo?</p> <p>3 A. The co-lo is in Elmsford,</p> <p>4 Connecticut.</p> <p>5 Q. Okay.</p> <p>6 A. It's a remote hosting site where</p> <p>7 we host our --</p> <p>8 Q. It's a website?</p> <p>9 A. Our websites.</p> <p>10 Q. Okay.</p> <p>11 So the annual tapes are kept in</p> <p>12 various locations?</p> <p>13 A. (Indicating.)</p> <p>14 Q. Where are the New York tapes kept?</p> <p>15 In this building?</p> <p>16 A. If -- no. I believe they're kept</p> <p>17 off-site in a company by the name of Recall.</p> <p>18 Q. What is that?</p> <p>19 A. That's a tape storage facility.</p> <p>20 Q. Where are they located? In New</p> <p>21 York?</p> <p>22 A. The greater New York area. Thank</p>	<p style="text-align: right;">85</p> <p>1 A. I can make sure that that happens.</p> <p>2 Q. All right.</p> <p>3 I'm just talking about the annual</p> <p>4 tapes now. I'm not talking about changing any of</p> <p>5 your backup policies and procedures, but the</p> <p>6 annual tapes that are at --</p> <p>7 A. Recall.</p> <p>8 Q. -- Recall or wherever else they're</p> <p>9 maintained throughout the country, will you</p> <p>10 maintain those?</p> <p>11 MR. KATZ: These are the two-day,</p> <p>12 two-day a year --</p> <p>13 A. This is the annual tapes, the</p> <p>14 year-end tapes.</p> <p>15 Q. Yes.</p> <p>16 MR. KATZ: Yes.</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 (Request for production of</p> <p>20 documentation or information.)</p> <p>21</p> <p>22 BY MR. PETERS:</p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

23 (Pages 86 to 89)

<p style="text-align: right;">86</p> <p>1 Q. Are there databases, catalogs or 2 other listings of the backups that you maintain? 3 <b>A. I don't understand the question.</b> 4 Q. Okay. 5 When the tapes are backed up 6 either daily or weekly, is there a catalog 7 maintained of what's been backed up? 8 <b>A. Yes.</b> 9 Q. Okay. 10 Can you describe that for me? 11 <b>A. The backup system records the</b> 12 <b>files that it stores on tapes and places them in</b> 13 <b>its catalog that it manages.</b> 14 Q. Okay. 15 And then is that catalog 16 maintained separately, printed out, for example? 17 <b>A. No.</b> 18 Q. Maintained on the system? 19 <b>A. Correct.</b> 20 Q. And does the catalog change every 21 time a backup occurs? 22 <b>A. Yes.</b></p>	<p style="text-align: right;">88</p> <p>1 <b>recover to. So you need resources and then</b> 2 <b>depending on -- well, if you're recovering</b> 3 <b>everything that's on the New York side it all</b> 4 <b>depends on how much data we're backing up and</b> 5 <b>what types of systems I'm restoring to. So I</b> 6 <b>can't answer that question without actually</b> 7 <b>looking at what I'm going to restore.</b> 8 Q. When you put the tape in, these 9 annual tapes, you can look just at the Outlook 10 files, is that correct? 11 <b>A. No.</b> 12 Q. How is it organized? 13 <b>A. Well, Outlook -- well, I think I'm</b> 14 <b>going to go out on a limb and say you're probably</b> 15 <b>talking about the Exchange server, correct?</b> 16 Q. Yes. Yes. 17 <b>A. The Exchange server data is stored</b> 18 <b>in an Exchange database and that data -- in order</b> 19 <b>to recover the data that's in the databases you</b> 20 <b>have to rebuild the Exchange environment as it</b> 21 <b>stood in that time frame and then restore the</b> 22 <b>data and then at that point you would then have</b></p>
<p style="text-align: right;">87</p> <p>1 Q. To reflect the new backup? 2 <b>A. To reflect the data that's in the</b> 3 <b>backup.</b> 4 Q. Okay. 5 Is there a catalog of the annual 6 tapes? 7 <b>A. No.</b> 8 Q. Okay. 9 Is there an inventory of those 10 tapes that's maintained either electronically or 11 on paper? 12 <b>A. Yes, there's an inventory for the</b> 13 <b>New York tapes at Recall. It's not detailed from</b> 14 <b>the end point of saying what's on the tapes.</b> 15 Q. What would it take to these what's 16 on those annual tapes? Would we have to put them 17 on a computer? 18 <b>A. We would have to put them onto a</b> 19 <b>DLT backup system, load software and then go</b> 20 <b>through a recovery process.</b> 21 Q. How much time would that take? 22 <b>A. I would need the infrastructure to</b></p>	<p style="text-align: right;">89</p> <p>1 <b>the ability to use tools, whatever the case might</b> 2 <b>be, to do a search.</b> 3 Q. See the mailboxes, for example? 4 <b>A. You can see the mailboxes.</b> 5 Q. Okay. 6 So what would it take to rebuild 7 that environment in your experience? 8 <b>A. It would -- we would have to learn</b> 9 <b>about what the environment was at that time, get</b> 10 <b>the appropriate resources, pull back the tapes</b> 11 <b>and then go through a restore.</b> 12 Q. And by the environment you mean 13 you'd need the right Exchange -- 14 <b>A. Version.</b> 15 Q. -- version? 16 <b>A. Uh-huh.</b> 17 Q. What else would you need? 18 <b>A. The directory environment. Back</b> 19 <b>then in 2000 News America Marketing was an NT40</b> 20 <b>environment. We're now a 2003 environment. So</b> 21 <b>we would have to restore or rebuild the</b> 22 <b>environment as it stood back then.</b></p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

24 (Pages 90 to 93)

<p style="text-align: right;">90</p> <p>1 Q. Don't you continue to use NT40?</p> <p>2 A. Uh-huh, we do.</p> <p>3 Q. Okay.</p> <p>4 So that environment is available</p> <p>5 to News America?</p> <p>6 A. The operating system is, but we</p> <p>7 would have to rebuild the domain structure. The</p> <p>8 domain as it stood back then, it doesn't exist,</p> <p>9 it doesn't exist today.</p> <p>10 Q. What would that involve?</p> <p>11 A. We would also have to recover the</p> <p>12 domain environment from tape as well and rebuild</p> <p>13 that.</p> <p>14 Q. What was the domain environment?</p> <p>15 A. It was running on NT40.</p> <p>16 Q. Okay.</p> <p>17 A. We have legacy systems that run on</p> <p>18 Windows server 4.0 that are -- which is not our</p> <p>19 E-mail system which is not our domain</p> <p>20 environment.</p> <p>21 Q. Okay.</p> <p>22 But if you had to look at those</p>	<p style="text-align: right;">92</p> <p>1 what tapes those mailboxes may be on?</p> <p>2 A. No. I have to go through the</p> <p>3 recovery process in order to tell you whose</p> <p>4 mailbox is stored where.</p> <p>5 Q. Why is that?</p> <p>6 A. Because the data is within -- the</p> <p>7 data is within a database. What the backup does</p> <p>8 is it backs up the database so in order to see</p> <p>9 the data within the database I have to first</p> <p>10 recover the database, then in Exchange I can open</p> <p>11 up and see, gee, is that mailbox here or not? If</p> <p>12 it's there then I can tell you who was on that,</p> <p>13 on that Exchange server.</p> <p>14 Q. But if the employee is employed</p> <p>15 out of New York, works in New York, isn't it more</p> <p>16 likely than not that his or her mailbox will be</p> <p>17 in on a New York server?</p> <p>18 A. In 2000?</p> <p>19 Q. Yes.</p> <p>20 A. No.</p> <p>21 Q. Where would -- why is that? I</p> <p>22 mean where would the mailbox be located for a New</p>
<p style="text-align: right;">91</p> <p>1 backup tapes, that's something that could be</p> <p>2 done, you have the resources to do that?</p> <p>3 MR. KATZ: Objection.</p> <p>4 A. No, I'd have to acquire the</p> <p>5 resources to go through and look at that data.</p> <p>6 Q. And what resources would you have</p> <p>7 to acquire?</p> <p>8 You have NT40, right?</p> <p>9 A. Right. I have NT40. I would have</p> <p>10 to build the environment and then recover the</p> <p>11 data and at that point the Exchange server will</p> <p>12 be up for lack of a better term.</p> <p>13 Q. Okay.</p> <p>14 And accessible LAN tools can be</p> <p>15 used?</p> <p>16 A. That is correct.</p> <p>17 There's one small note. I have to</p> <p>18 do that for three to four offices because I don't</p> <p>19 know where the Boston data is stored.</p> <p>20 Q. Okay.</p> <p>21 Now, if I were to provide you with</p> <p>22 a list of mailboxes, would you be able to tell me</p>	<p style="text-align: right;">93</p> <p>1 York employee?</p> <p>2 A. It could be either New York or</p> <p>3 Chicago.</p> <p>4 Q. Those two places?</p> <p>5 A. Correct.</p> <p>6 Q. And is there any logical way to</p> <p>7 determine where an employee's mailbox will be</p> <p>8 either in New York or Chicago?</p> <p>9 A. It's based on the employee's</p> <p>10 history with the company.</p> <p>11 Q. Can you put a finer point on that?</p> <p>12 What about their history?</p> <p>13 A. News America Marketing came</p> <p>14 together as through a series of acquisitions and</p> <p>15 the in-store division was centered in</p> <p>16 Connecticut. The FSI division is centered in New</p> <p>17 York and then the merchandising division is in</p> <p>18 Chicago.</p> <p>19 So as the company grew, 2000</p> <p>20 forward, employees shifted from office to office.</p> <p>21 So it was very hard for me to tell you that a</p> <p>22 hundred percent of the New York City employees</p>



McBean, Jr., Alfred A.

March 27, 2007

New York, NY

25 (Pages 94 to 97)

<p style="text-align: right;">94</p> <p>1 are in New York where, versus Connecticut versus  2 Chicago. It's more apparent with New York and  3 Connecticut only because, you know, the employees  4 went back and forth continuously so.  5 Q. So if you knew an employee's  6 history with the company, in other words, where  7 he came from, where he worked you could speculate  8 with some accuracy about where his mailbox is  9 located?  10 A. Speculate, but again there was no  11 hard and fast rule that said mailbox is here  12 versus there versus -- there was never a hard and  13 fast rule.  14 Q. Okay.  15 So, I'm sorry, if I asked you this  16 question, Mr. McBean, is there any type of  17 inventory of these annual tapes? I think you  18 told me that it's maintained at Recall?  19 A. For New York it's maintained at  20 Recall. In other offices it's either we have  21 them on-site or they're maintained by, you know,  22 by their Iron Mountain and there might be one</p>	<p style="text-align: right;">96</p> <p>1 Q. You could get to those  2 inventories?  3 A. I can get to them. I may not have  4 direct access, but I can get to those  5 inventories, yes.  6 Q. Okay.  7 Do you use a particular brand of  8 backup tape?  9 A. I don't know. I mean it's a DLT  10 tape. I never stopped to see who made it.  11 Q. Okay.  12 Is there a central log of your  13 backups?  14 A. No.  15 Q. So am I correct that the most --  16 Strike the question.  17 Am I correct then if documents  18 exist from the years 1999 and 2000 the only place  19 they're going to be are on those annual tapes,  20 they are not otherwise backed up at any location?  21 A. Data can exist on the file servers  22 that stretch back as far as 1999. So if it's</p>
<p style="text-align: right;">95</p> <p>1 other -- Meyer is another tape storage company.  2 Q. Meyer?  3 A. Meyer.  4 Q. Where are they?  5 A. They're in Connecticut.  6 Q. Whose tapes do they maintain?  7 A. Predominantly Wilton.  8 Q. Did these companies that store  9 your tapes Meyer, Iron Mountain, recall, do they  10 provide you with some electronic or paper  11 inventory?  12 A. They provide us with electronic  13 inventory telling us what tapes they have of ours  14 by tape number.  15 Q. Okay.  16 And where are those inventories  17 maintained on the server?  18 A. Electronically each one of the  19 hosting facilities.  20 Q. Do you have access to all of those  21 inventories?  22 A. Yes.</p>	<p style="text-align: right;">97</p> <p>1 still on our file servers today it's online or it  2 could be on the year-end tapes.  3 Q. Okay.  4 But E-mail from that time period,  5 the only place that's going to be is on those  6 tapes, right?  7 A. E-mail from that time period would  8 be on those tapes or in Outlook PST files that  9 may exist on end users' computers.  10 Q. Right.  11 If the end user archived the  12 E-mail themselves then they exist on the computer  13 still?  14 A. Uh-huh.  15 Q. Correct?  16 A. (Indicating.)  17 Q. Otherwise they're on those tapes?  18 A. Correct.  19 MR. KATZ: Assuming they haven't  20 been deleted.  21 MR. PETERS: Well --  22 THE WITNESS: I said E-mail.</p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

26 (Pages 98 to 101)

<p style="text-align: right;">98</p> <p>1 BY MR. PETERS:</p> <p>2 Q. Those tapes haven't been deleted,</p> <p>3 they exist. Whatever E-mails exists on those</p> <p>4 tapes is still there?</p> <p>5 A. <b>Whatever E-mail that existed in</b></p> <p>6 <b>that time period would be on the year-end backup.</b></p> <p>7 Q. Can you tell me the people who are</p> <p>8 responsible for network supervision?</p> <p>9 In other words, let me put it</p> <p>10 another way: Who reports to you? First give me</p> <p>11 a number of people.</p> <p>12 A. <b>Eight.</b></p> <p>13 Q. Okay. Then I can ask you this</p> <p>14 question without feeling guilty. Who reports to</p> <p>15 you?</p> <p>16 A. <b>Kevin Barrett, Jason Magill,</b></p> <p>17 <b>Christopher Adami, Gabe Martinez, Martin Puzan,</b></p> <p>18 <b>Victor Yang, Bradford Heines.</b></p> <p>19 <b>How many do I have?</b></p> <p>20 Q. Seven.</p> <p>21 A. <b>Oh, Ulrich Patzer.</b></p> <p>22 Q. And do all these folks have the</p>	<p style="text-align: right;">100</p> <p>1 Q. None of them?</p> <p>2 A. <b>None of them.</b></p> <p>3 Q. Do you know if they're in the New</p> <p>4 York area?</p> <p>5 A. <b>I have no clue.</b></p> <p>6 Q. Were they working in New York?</p> <p>7 A. <b>Well, I do know that one of them</b></p> <p>8 <b>was in the Chicago area.</b></p> <p>9 Q. Who is that?</p> <p>10 A. <b>Bob Rizzo.</b></p> <p>11 Q. Bob Rizzo?</p> <p>12 A. <b>Bob Rizzo.</b></p> <p>13 Q. You don't happen to know if he has</p> <p>14 a middle initial, do you?</p> <p>15 A. <b>(Indicating.)</b></p> <p>16 Q. Okay.</p> <p>17 A. <b>I think his official name is</b></p> <p>18 <b>Robert Rizzo.</b></p> <p>19 Q. Were or are handheld devices</p> <p>20 synchronized with the server?</p> <p>21 A. <b>What time period?</b></p> <p>22 Q. Currently.</p>
<p style="text-align: right;">99</p> <p>1 same job responsibilities albeit for different</p> <p>2 parts of the company?</p> <p>3 A. <b>They report into me. They help me</b></p> <p>4 <b>manage the Windows layer. They are assigned</b></p> <p>5 <b>different responsibilities based on business</b></p> <p>6 <b>need.</b></p> <p>7 Q. Okay.</p> <p>8 Are any of these folks responsible</p> <p>9 for backup?</p> <p>10 A. <b>Yes.</b></p> <p>11 Q. Who is that?</p> <p>12 A. <b>Ulrich Patzer, Martin Puzan,</b></p> <p>13 <b>Victor Yang, Chris Adami. Those are the key</b></p> <p>14 <b>backup.</b></p> <p>15 Q. Okay.</p> <p>16 Who was responsible for backing up</p> <p>17 in 2000 when you joined the company?</p> <p>18 A. <b>In 2000 Bob Rizzo, Jane Hogan,</b></p> <p>19 <b>Jesse Leo.</b></p> <p>20 Q. Are these folks still at News</p> <p>21 America Marketing?</p> <p>22 A. <b>No, they're not.</b></p>	<p style="text-align: right;">101</p> <p>1 A. <b>Currently, yes.</b></p> <p>2 Q. Okay.</p> <p>3 When did that begin, that process?</p> <p>4 A. <b>Automatic synchronization, I don't</b></p> <p>5 <b>have an exact time. I want to say it was</b></p> <p>6 <b>probably about three to four years ago.</b></p> <p>7 Q. Okay.</p> <p>8 A. <b>And that's with the introduction</b></p> <p>9 <b>of the Blackberries.</b></p> <p>10 Q. Okay.</p> <p>11 So then that data once</p> <p>12 synchronized would also be backed up daily,</p> <p>13 weekly, annually?</p> <p>14 A. <b>Well, the data on the Blackberry</b></p> <p>15 <b>was not backed up. The data in the E-mail system</b></p> <p>16 <b>was.</b></p> <p>17 Q. Sure.</p> <p>18 But once the sync happened then</p> <p>19 whatever was on the Blackberry was on the server,</p> <p>20 right?</p> <p>21 A. <b>No.</b></p> <p>22 Q. It didn't work that way?</p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

27 (Pages 102 to 105)

<p style="text-align: right;">102</p> <p>1 <b>A. No, because you can store data on</b>  2 <b>your Blackberry that is not --</b>  3 <b>Q. That was on its own drive. Okay.</b>  4 <b>And there was no procedure for</b>  5 <b>backing up data that was stored just on the</b>  6 <b>Blackberry?</b>  7 <b>A. There is a procedure. It's</b>  8 <b>defined in the manual. It was at the user's</b>  9 <b>discretion.</b>  10 <b>Q. Okay.</b>  11 <b>Which Exchange version was being</b>  12 <b>used when you started? Was that the 4.0?</b>  13 <b>A. It was Exchange Version 5.5.</b>  14 <b>Q. That's in 2000?</b>  15 <b>A. That's in 2000.</b>  16 <b>Q. And can you give me the</b>  17 <b>progression?</b>  18 <b>A. We went from Exchange 5.5 to</b>  19 <b>Exchange 2000 and then we went from Exchange 2000</b>  20 <b>to Exchange 2003.</b>  21 <b>Q. Did you go to 2000 around 2000?</b>  22 <b>A. No. I believe that took place</b></p>	<p style="text-align: right;">104</p> <p>1 in some location and access every server in the  2 country?  3 <b>A. Yes.</b>  4 <b>Q. And, therefore, you can access</b>  5 <b>what's ever on that server?</b>  6 <b>A. Correct.</b>  7 <b>Q. Okay.</b>  8 <b>Is there a policy about password</b>  9 <b>protecting documents?</b>  10 <b>A. Password protecting documents?</b>  11 <b>Q. Word documents, for instance, or</b>  12 <b>Excel documents?</b>  13 <b>A. I think that goes back to our</b>  14 <b>computer usage document. I can't articulate</b>  15 <b>what's in that document verbatim, but I believe</b>  16 <b>it does make mention of what to do with sensitive</b>  17 <b>material.</b>  18 <b>Q. Okay.</b>  19 <b>And are passwords maintained in</b>  20 <b>one location for documents or is there a standard</b>  21 <b>password that's used?</b>  22 <b>A. No. Not -- no, not at all.</b></p>
<p style="text-align: right;">103</p> <p>1 <b>around either late 2001 or 2002.</b>  2 <b>Q. Okay.</b>  3 <b>And the 2003 migration, when did</b>  4 <b>that happen?</b>  5 <b>A. Probably either late 2003 or 2004.</b>  6 <b>I don't have an exact date on either.</b>  7 <b>Q. Okay.</b>  8 <b>Can all of the servers be accessed</b>  9 <b>from a central location?</b>  10 <b>MR. KATZ: You're talking about</b>  11 <b>today?</b>  12 <b>MR. PETERS: Today.</b>  13 <b>A. For the most part, yes.</b>  14 <b>BY MR. PETERS:</b>  15 <b>Q. Is the data that's only available</b>  16 <b>locally?</b>  17 <b>MR. KATZ: I don't understand the</b>  18 <b>question.</b>  19 <b>Q. What I'm getting at is I'm picking</b>  20 <b>on your qualifier for the most part.</b>  21 <b>Can you sit in your office or sit</b></p>	<p style="text-align: right;">105</p> <p>1 <b>Q. Okay.</b>  2 <b>In this written policy can you</b>  3 <b>describe it for me as a one document, the</b>  4 <b>computer usage policy?</b>  5 <b>A. Yes. That I'm aware of it's a</b>  6 <b>document that's produced by News Corporation.</b>  7 <b>Q. Okay.</b>  8 <b>And is it the same, excuse me, is</b>  9 <b>there a separate document that covers document</b>  10 <b>retention?</b>  11 <b>A. Yes.</b>  12 <b>Q. And have you seen that document,</b>  13 <b>the document retention policy?</b>  14 <b>A. Yes.</b>  15 <b>Q. How long is it?</b>  16 <b>A. In pages?</b>  17 <b>Q. Yes.</b>  18 <b>A. I don't -- I don't know. Two,</b>  19 <b>three pages. I don't know.</b>  20 <b>Q. Okay.</b>  21 <b>And how far back does the document</b>  22 <b>retention policy go? In other words, when did</b></p>



McBean, Jr., Alfred A.

March 27, 2007

New York, NY

28 (Pages 106 to 109)

<p style="text-align: right;">106</p> <p>1 the document retention policy go into effect?</p> <p>2 <b>A. I don't have an exact date, but</b></p> <p>3 <b>sometime 2005.</b></p> <p>4 Q. Was there a document retention</p> <p>5 policy in 2000 when you joined the company?</p> <p>6 <b>A. None that I can recall, no.</b></p> <p>7 MR. KATZ: Let me just interject, I</p> <p>8 think that you asked him before lunch about</p> <p>9 document retention and I think he testified that</p> <p>10 there was no document retention policy during the</p> <p>11 period of time that your clients were involved</p> <p>12 with News America Marketing and I think you've</p> <p>13 just testified again that this document retention</p> <p>14 policy came into effect in 2005 again after they</p> <p>15 were gone for a considerable period of time from</p> <p>16 News America Marketing.</p> <p>17 So I don't know if there's any</p> <p>18 further need for you to explore the current</p> <p>19 document retention policy because it doesn't</p> <p>20 really deal with the situation we have in this</p> <p>21 case.</p> <p>22 MR. PETERS: No, I agree with that.</p>	<p style="text-align: right;">108</p> <p>1 Q. Can you tell me about that, what</p> <p>2 did you migrate and when?</p> <p>3 <b>A. Exchange from, you know, version</b></p> <p>4 <b>55 to 2000. Exchange from 2000 to 2003. These</b></p> <p>5 <b>are enterprise-type transitions.</b></p> <p>6 Q. When you migrated the data from 55</p> <p>7 to 2000 did you do it by tape?</p> <p>8 <b>A. No.</b></p> <p>9 Q. How was it done?</p> <p>10 <b>A. As part of the migration</b></p> <p>11 <b>instructions it tells you how to do it, you know,</b></p> <p>12 <b>going from version, from the previous version to</b></p> <p>13 <b>the later version.</b></p> <p>14 Q. Okay.</p> <p>15 But prior to migrating the data</p> <p>16 from 55 to 2000 did you make the complete backup</p> <p>17 of the data on 55 in case the migration failed?</p> <p>18 <b>A. By virtue of our backup</b></p> <p>19 <b>procedures, yes. So we didn't go out and make an</b></p> <p>20 <b>explicit backup of the environment. We just</b></p> <p>21 <b>leveraged our procedures.</b></p> <p>22 Q. All right.</p>
<p style="text-align: right;">107</p> <p>1 I go back and talk about the document retention</p> <p>2 policy because for lack of a better description I</p> <p>3 find it hard to believe there was no document</p> <p>4 retention policy in a company this size. I</p> <p>5 haven't come across that before so, but it is what</p> <p>6 it is.</p> <p>7</p> <p>8 BY MR. PETERS:</p> <p>9 Q. Have there been any large-scale</p> <p>10 migrations of data that have required News</p> <p>11 America to use backup tapes in order to move</p> <p>12 from, for example, one version of an application</p> <p>13 to another?</p> <p>14 <b>A. No, not that I can recall, no.</b></p> <p>15 Q. Have you changed any applications</p> <p>16 that required you to migrate data --</p> <p>17 <b>A. Yes.</b></p> <p>18 Q. -- since your tenure?</p> <p>19 <b>A. Yes.</b></p> <p>20 Q. And have you had to migrate data</p> <p>21 on an enterprise-wide basis?</p> <p>22 <b>A. Yes.</b></p>	<p style="text-align: right;">109</p> <p>1 So there's no backup tape that</p> <p>2 exists, for example, that corresponds to the time</p> <p>3 you migrated 55 to 2000 and 2000 to 2003?</p> <p>4 <b>A. No, there isn't and that's because</b></p> <p>5 <b>of the length of time that these types of</b></p> <p>6 <b>enterprise changes, when you do a migration, it's</b></p> <p>7 <b>not a one night deal. It takes several weeks to</b></p> <p>8 <b>do.</b></p> <p>9 Q. Right.</p> <p>10 So but I think you answered my</p> <p>11 question. I apologize for asking it again. You</p> <p>12 didn't image any drives in that process to make</p> <p>13 sure that you had the data available in the event</p> <p>14 of a failed migration or a part of it failed?</p> <p>15 <b>A. No.</b></p> <p>16 MR. PETERS: That's all I have.</p> <p>17 MR. KATZ: Okay.</p> <p>18 MR. LIPPNER: Wow, that does it.</p> <p>19 (Time noted: 1:10 p.m.)</p> <p>20</p> <p>21</p> <p>22</p>

McBean, Jr., Alfred A.

March 27, 2007

New York, NY

29 (Pages 110 to 111)

<p style="text-align: right;">110</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8                    <u>ALFRED A. McBEAN, JR.</u></p> <p>9</p> <p>10 Subscribed and sworn to before me</p> <p>11 this ____ day of _____ 2007.</p> <p>12</p> <p>13 _____</p> <p>14 /</p> <p>15 /</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">111</p> <p>1                    C E R T I F I C A T E</p> <p>2     S T A T E   O F   _____ )</p> <p>3                    ) : ss.</p> <p>4     C O U N T Y   O F   _____ )</p> <p>5                    I, RICH GERMOSEN, a Certified Court</p> <p>6     Reporter, NCRA Certified Realtime Reporter,</p> <p>7     Certified LiveNote Reporter, and Notary Public</p> <p>8     within and for the States of New York and New</p> <p>9     Jersey, do hereby certify:</p> <p>10                  That ALFRED A. McBEAN, JR., the witness</p> <p>11     whose deposition is hereinbefore set forth, having</p> <p>12     been duly sworn by a Notary Public of the States of</p> <p>13     New York and New Jersey, and that such deposition is</p> <p>14     a true record of the testimony of said witness.</p> <p>15                  I further certify that I am not related</p> <p>16     to any of the parties to this action by blood or</p> <p>17     marriage, and that I am in no way interested in the</p> <p>18     outcome of this matter.</p> <p>19                  IN WITNESS WHEREOF, I have hereunto set</p> <p>20     my hand this ____ day of _____ 2007.</p> <p>21</p> <p>22                  <u>RICH GERMOSEN, CCR, CRCR, RPR, CRR, CLR</u>                       LICENSE NO. XI01847                       LICENSE NO. XR00168</p>
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## **EXHIBIT 8**

**TODD & WELD LLP**

ATTORNEYS AT LAW  
28 STATE STREET  
BOSTON, MASSACHUSETTS 02109

DAVID H. RICH  
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October 30, 2006

**VIA FACSIMILE AND**  
**FIRST CLASS MAIL**

Gordon Katz, Esq.  
Holland & Knight, LLP  
10 St. James Avenue  
Boston, MA 02116

Re: Robert Fireman and Ann Raider v. News America Marketing In-Store, Inc.  
Civil Action No. 05-11740-MLW

Dear Gordon:

I write to follow up on our brief discussion concerning News America Marketing In-Store, Inc.'s ("NAM") recent document production. Based upon our review, it would appear that many of your client's responsive documents have not been produced.

First, my clients seek NAM's complete email database in electronic form. I am willing discuss appropriate search terms, but quite clearly we would like any emails which reference, refer or relate to Ann Raider, Robert Fireman, Consumer Card Marketing, Inc (or CCMI), SmartSource Direct or SmartSource iGroup. Not only has this information been requested, but its production will soon be explicitly mandated by the revised Federal Rules of Civil Procedure, (although "documents" have included electronic documents for years). To the extent NAM possesses a document retention policy and/or an electronic data retention policy, I would ask that it be produced as well.

While certain limited emails and documents were made available (in non electronic form) for our review, we were unable to located any files belonging to any of the following individuals: David DeVoe (including memos, notes and emails), Marty Garofolo (including memos, notes and emails), Heather Hearty (including memos, notes and emails), Mike Gafney (including memos, notes and emails), Dominic Portco (including memos, notes and emails), Mike Racono (including memos, notes and emails), Jennifer Jane (including memos, notes and emails), Jeff Jenson (including memos, notes and emails) and John Rubin (including memos, notes and emails). Moreover, it seems readily apparent to us that large portions of Chris Mixon and Henri Lellouche's files, including memos, notes and electronic files, were simply not produced. You will see from my clients' document production that numerous emails and other

Gordon Katz, Esq.  
October 30, 2006  
Page 2 of 3

documents were sent to or received from Mr. Mixon and/or Mr. Lellouche and simply not produced within your client's document production.

Among these files should include documents reflecting specific discussions concerning who should run CCMI, particularly between August and December, 1999. We understand that documents also exist concerning the breaking up of CCMI personnel, how to move Bill Adam to Connecticut, Mr. Fireman's job responsibilities (or lack of job responsibilities), among other documents generally concerning CCMI, Mr. Fireman and Ms. Raider.

In addition, my clients believe that NAM has failed to produce all meeting minutes for meetings attended by Ann Raider or Robert Fireman. Likewise, NAM has failed to produce all meeting minutes at which Ms. Raider, Mr. Fireman, CCMI, SmartSource Direct or SmartSource iGroup were mentioned or discussed. We have observed that NAM did not produce a single document reflecting notes taken at any meeting during which Ms. Raider, Mr. Fireman, CCMI, SmartSource Direct or SmartSource iGroup were mentioned or discussed. This would include, but is not limited to, minutes or notes from any NAM executive management meeting, any NAM executive committee meeting and/or any SmartSource iGroup executive meeting. Given my clients' experience with NAM, these meetings took place on a weekly basis, meeting minutes and agendas were created, circulated and maintained and individual attendees routinely took notes. By way of example only, NAM held an executive meeting every Monday attended by Mr. Carlucci, Mr. Porco, Mr. Mixon, Mr. Garofalo, Mr. Campanelli, Ms. Jane, NAM's Chief Financial Office and NAM's human resources director, among others.

We were also unable to locate complete documents concerning the due diligence performed by NAM concerning CCMI. For example, we did not receive documents concerning any studies, strategic plans, projections or internal analysis performed by NAM concerning the potential acquisition on CCMI. We are aware that such reports were prepared and circulated within NAM prior to the execution of the Stock Transfer Agreement. Along the same lines, we did not receive NAM's strategic plan, analysis or report concerning NAM's potential acquisitions of Planet U, Softcard and CCMI. Again, we believe such documents do exist and were circulated within NAM in 1999. Finally, we did not receive any internal communications, including but not limited to email communications, relating to the potential acquisition of CCMI by NAM.

Lastly, to the extent NAM has withheld any documents on the basis of an applicable privilege, we will require a privilege log.

Thank you for your attention to this matter and please let this letter serve as the initiation of a discovery conference pursuant to Local Rule 7.1.

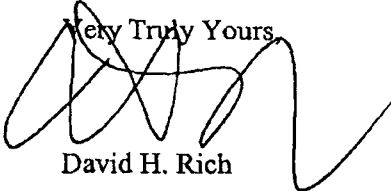
10/30/2006 11:00 FAX 6172275777

TODD & WELD LLP

004

Gordon Katz, Esq.  
October 30, 2006  
Page 3 of 3

Very Truly Yours,



David H. Rich

cc: Kevin T. Peters, Esq.

## **EXHIBIT 9**

# Holland+Knight

Tel 617 523 2700  
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Holland & Knight LLP  
10 St. James Avenue  
Boston, MA 02116-3889  
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Gordon P. Katz  
617 573 5839  
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December 12, 2006

**VIA E-MAIL and FIRST CLASS MAIL**

David H. Rich, Esq.  
Todd & Weld LLP  
28 State Street  
Boston MA 02109

Re: Robert Fireman and Ann Raider v. News America Marketing In-Store, Inc.  
Civil Action No. 05-11740-MLW

Dear David:

I am responding to your letter of October 30, 2006. Since receiving your letter, we have spent considerable time interviewing News America Marketing ("NAM") personnel, considering your new requests for information, reviewing our prior production, and seeking additional documents in order to make this response.

A. *Overview.*

Let me note at the outset that in September, 2006 we made available for your review approximately 70,000 pages of documents, contained in roughly 64 binders, 5 redwelds, and 17 boxes. The documents came from the NAM-archived paper files of your clients, as well as the paper and electronic files of Henri Lellouche, paper files of NAM personnel John Linguiti, Wayne Campanelli, Donald Jack, and paper files of one of NAM's outside corporate counsel, Deborah Wolfe. On September 28, 2006, you and your clients inspected this material at our office. Of the documents made available for your review, you requested copies of only 3,857 pages. These copies were delivered to you in October.

Since that time, we have obtained further documents from the electronic files of Henri Lellouche and also paper files from Marty Garofalo. These amount to approximately 5 boxes of documents. They are available for your review at our office at your convenience.

B. *Response to Requests in October 30, 2006 Letter.*

Now let me respond to the specific requests in your October 30 letter.



David H. Rich, Esq.  
December 12, 2006  
Page 2

1. First, you request "NAM's complete e-mail data base in electronic form." This request is far too broad, far too burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. Indeed, as discussed below, the request seeks *inaccessible* information. We, therefore, decline to make the requested production.

The requested electronic production is not required under either the old or new federal rules regulating electronic discovery. Under new Rule 26(b)(2)(B), electronic discovery from inaccessible sources is not required. "[J]ust because ESI [electronically stored information] exists on some source stored somewhere should not necessarily mean that it has to be retrieved and produced regardless of burden and expense." S. Scheindlin, *Electronic Discovery: The Newly Amended Federal Rules of Civil Procedure*, at 15 (2006).

As you will see below, we have already provided the ESI information of Henri Lellouche, your clients' immediate supervisor at NAM. We have located additional electronic material from Mr. Lellouche and paper files of Mr. Garofalo, which are available for you to review at our office (as was done previously).

There are no accessible ESI files for the other individuals you name in your October 30, 2006 letter. All of those individuals (with the exception of Mr. Mixon) ceased their employment with NAM before receipt of your document production request.<sup>1</sup> Their electronic files were not maintained after their departures. As for Mr. Mixon, we have checked, and he has not personally retained any material, electronic or otherwise, relating to your clients or CCMI.

2. Second, you ask whether NAM possesses a document retention policy and/or an electronic data retention policy. The answer is "no" with respect to both.

3. Third, you inquire as to existence of CCMI-related files for the following individuals:

- David Devoe, Jr.;
- Marty Garofalo;
- Heather Harde;
- Michael Gaffney;
- Dominic Porco;
- Jennifer Jehn;
- Jeff Jensen;
- Jon Rubin; and
- Chris Mixon

We have checked to determine if any of these individuals retained or "left" files relating to this matter. We use the word, "left," because all but Chris Mixon and Marty Garofalo ceased their employment with NAM at some point prior to receipt of your document production request.

---

<sup>1</sup> Mr. Rubin has since rejoined NAM.

David H. Rich, Esq.  
December 12, 2006  
Page 3

There are no existing files belonging to these individuals, except as noted in the next paragraph, below.

We further point out that some of the individuals listed above had no substantive involvement during their employment with CCMI or Fireman or Raider -- e.g., Heather Harde, Jeff Jensen or Jennifer Jehn. Documents from others -- namely, former accounting and finance personnel Mike Gaffney and Michael Racano -- were included, to the extent they existed, in the Don Jack-supplied material, which you reviewed on September 28, 2006.

4. With respect to your general assertion that the entirety of certain individuals' files were not produced, please remember that the events at issue in this litigation took place primarily in 1999 -- 2000. It cannot reasonably be expected that all of NAM's documents would be maintained intact for, in some cases, over five years.

As I think you would agree, NAM had no obligation to preserve any such documents. Certainly (1) NAM did not anticipate this litigation, and (2) even if litigation had been anticipated, which it was not and could not reasonably have been, the documents you seek could not reasonably have been anticipated to be relevant to this litigation. *See, e.g., Zubulake v. UBS Warburg LLC*, 220 F.R.D. 212, 216 (S.D.N.Y. 2003) (the duty to preserve documents attaches "when a party should have known that the evidence may be relevant to future litigation"). *See also Hynix Semiconductor Inc. v. Rambus, Inc.*, 2006 WL 565893, at \*21 (N.D.Cal. 2006) (the future litigation must be "probable," i.e., "more than a possibility"); *Smith v. City of New York*, 388 F. Supp. 2d 179, 189 (S.D.N.Y. 2005) (stating that "[t]he obligation to preserve evidence may arise through a discovery request, through information alleged in the complaint, or prior to the initiation of litigation where a party is on notice that legal proceedings are likely . . . [t]here must be a factual basis for a party to be on notice that litigation is likely to be commenced").

5. Let me now turn to your assertions that NAM has "failed to produce all meeting minutes" from meetings attended by Fireman and Raider, that "NAM did not produce document[s] reflecting notes taken at any meeting during which Ms. Raider, Mr. Fireman, CCMI, SmartSource Direct, or SmartSource iGroup were mentioned or discussed or that NAM failed to produce any due diligence documents." These claims are simply untrue.

For example, the following documents produced contained "minutes" documents:

- Binders 4.01.01 and 4.01.02 (2000-2001 Highlights and Minutes);
- Binder 4.02 (2001 Salespeople Highlights and Calendars);
- Binder 4.22 (Retail Meeting Minutes); and
- Binder 4.30 (various minutes).

Indeed, you selected for copying some meeting minutes, including those that are bates stamped NAM 00051-58; NAM 00059-61 (containing handwritten notes); NAM 00064-73 (these contain

David H. Rich, Esq.  
December 12, 2006  
Page 4

handwritten notes); NAM 00090-91 (containing handwritten notes); NAM 00097-99; NAM 00104-106 (containing handwritten notes); NAM02221-27; NAM03660-3663 and NAM03677-3685.

With respect to your assertion that NAM did not produce "studies, strategic plans, projections, or internal analy[sis]" or "internal communications" concerning the potential acquisition of CCMI, I direct you to the following documents:

- the 5/14/99 memo from DeVoe to John Nallen et al., regarding the potential acquisition of CCMI and attaching an internal NAM analysis of CCMI. (Wolfe redweld, Vol. I; produced to you as NAM01474-1480);
- the 5/27/99 memo from Julie Openshaw to Dave DeVoe, Jr. regarding findings of NAM's due diligence site visit to CCMI (Wolfe redweld, Vol. IV); and
- the 6/9/99 memo from Charlotte Edelman, to D. Wolfe et al., regarding due diligence and the acquisition of CCMI (Wolfe redweld, Vol. II).

Further, the documents produced to you and bates stamped NAM03599 - NAM03621 include the following additional "due diligence" documents:

- a business overview of CCMI discussing, among other things, value for NAM in acquiring CCMI, with attached financial results and projections;
- a memo from "Joe" to "Dave" summarizing Joe's trip to CCMI on 5/25/99, and his discussions with Robert Coughlin regarding the business practices and "overall business health" of CCMI;
- a memo dated 6/21/99 (incorrectly dated 6/21/98) from Ram Rao to Dave DeVoe, Jr., attaching a detailed review of CCMI per Mr. Rao's due diligence session on 6/5/99; and
- a 6/17/99 memo from Gary Beck to Dave DeVoe, Jr. and Jon Rubin summarizing a meeting regarding "CCMI credentials" with Ann Raider and Bill Adams.

6. Finally, you requested a privilege log. As you know, we forwarded you our privilege log on November 6, 2006.

David H. Rich, Esq.  
December 12, 2006  
Page 5

Please let me know if you have any additional questions or if you would like to discuss any issue further.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gordon", with a large, stylized loop at the end.

Gordon P. Katz

# 4227040\_v1

## **EXHIBIT 10**

**TODD & WELD LLP**

ATTORNEYS AT LAW  
28 STATE STREET  
BOSTON, MASSACHUSETTS 02109

DAVID H. RICH  
Email: drich@toddweld.com

TELEPHONE: (617) 720-2626  
FACSIMILE: (617) 227-5777  
www.toddweld.com

January 5, 2007

**VIA ELECTRONIC MAIL**  
**AND FIRST CLASS MAIL**

Gordon Katz, Esq.  
Holland & Knight, LLP  
10 St. James Avenue  
Boston, MA 02116

Re: Robert Fireman and Ann Raider v. News America Marketing In-Store, Inc.  
Civil Action No. 05-11740-MLW

Dear Gordon:

I write to follow up on a few pending matters concerning News America Marketing In-Store's ("NAM") document production and related issues.

First, your December 12, 2006 letter notes that approximately five boxes of additional documents are available for review. My clients and I would like to come to your office to review these documents on January 19<sup>th</sup> at 10 AM. If possible, we would like the materials previously produced to be made available again. Please let me know if this works for you and your staff.

Second, in my letter of October 30, 2006, I specifically raised the issue of meeting minutes and notes. You responded by stating that certain meeting minutes were produced within the document production. Most respectfully, your written response has missed the point. My clients have requested, and are entitled to review, all meeting minutes at which Ms. Raider, Mr. Fireman, CCMI, SmartSource Direct or SmartSource iGroup were mentioned or discussed.

Nowhere in the "70,000 pages of documents" produced by your client did NAM produce a single meeting minute or note from NAM's executive management meetings, which were routinely held from 8 AM to 11 AM every Monday. These meetings were attended by, among others, Mr. Carlucci, Mr. Porco, Mr. Mixon, Mr. Garafalo, Mr. Jenson, Mr. Klein, Ms. Jehn, Mr. Campelli and Mr. Davoe, Jr. Ms. Raider, Mr. Fireman, CCMI, SmartSource Direct and/or SmartSource iGroup were discussed during these meetings and minutes and notes reflecting discussions on these topics were documented and recorded. To date, nothing has been produced.

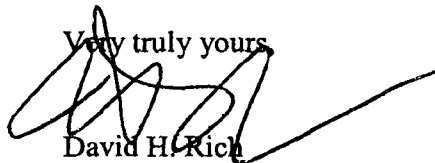
Gordon Katz, Esq.  
January 5, 2007  
Page 2 of 2

Likewise, NAM did not produce a single record, minute or note from its weekly division meetings (sometimes called the "new ventures group meetings" or later, "SmartSource iGroup meetings"). These meetings were attended by individuals such as Mr. Davoe Jr., Mr. Lellouche, Ms. Heardy, Mr. Rubin, Mr. Mixon, Mr. Garofalo, Mr. Campanelli, Mr. Racano and others. Again, there can be no dispute that Ms. Raider, Mr. Fireman, CCMI, SmartSource Direct and/or SmartSource iGroup were routinely discussed during these meetings and minutes and notes reflecting discussions on these topics were documented. At these meetings the strategic plan for the acquisition of CCMI, Planet U and Softcard, Inc. were discussed. Moreover, in these meetings NAM decided how to manage (or not manage) all aspects of CCMI, the Plaintiffs and all other personnel. These materials are relevant to the litigation and must be produced for inspection.

Along the same lines, your letter goes to great lengths to identify various due diligence documentation provided within the document production but nowhere do you represent that all due diligence materials have been produced. As I informed you in October, studies, strategic plans, projections or internal analysis were performed by NAM concerning the potential acquisition on CCMI. These documents were prepared and circulated within NAM prior to the execution of the Stock Transfer Agreement. None of these materials have been produced. Along the same lines, nowhere does your letter address my clients' request for NAM's strategic plan, analysis or report concerning NAM's potential acquisitions of Planet U, Softcard and CCMI. Again, these documents existed at one time. If the documents no longer exist, please so state and identify when they were destroyed. If the documents currently exist (and we have reason to believe that they do), please produce them.

Concerning the issues set forth in your letter concerning electronic data retention, my clients intend to notice a Rule 30(b)(6) deposition on this topic. I will forward to you shortly a deposition notice. I would like to work cooperatively with you to schedule the deposition for a date convenient to all. We have also identified the first four individuals we intend to depose. I am happy to share the identities of these individuals so we can begin the process of working to scheduling these depositions in the most efficient manner possible.

Thank you.

Very truly yours  
  
David H. Rich

cc: Kevin T. Peters, Esq.

# **EXHIBIT 11**



# Holland+Knight

Tel 617 523 2700  
Fax 617 523 6850

Holland & Knight LLP  
10 St. James Avenue  
Boston, MA 02116-3889  
www.hklaw.com

Gordon P. Katz  
617 573 5839  
gordon.katz@hklaw.com

January 26, 2007

VIA E-MAIL and FIRST CLASS MAIL

David H. Rich, Esq.  
Todd & Weld LLP  
28 State Street  
Boston, MA 02109

Re: Robert Fireman, et al. v. News America Marketing In-Store, Inc.  
Civil Action No. 05-11740-MLW

Dear David:

I write in response to your letter of January 5, 2007 concerning outstanding discovery issues in the above-referenced case.

1. First, I can confirm that we will make all of NAM's responsive, non-privileged documents available for your review (again) on February 1, 2007 at 10 a.m. in our office.
2. With respect to the requested executive committee meeting minutes, we are still working to determine whether any such minutes from the relevant time frame exist. The many persons whom we have contacted to date have not had possession of these documents; however, we are continuing to track down other persons who might have possession of such minutes. We will continue to update you on this issue, and to the extent that any relevant executive committee meeting minutes surface, we will produce them to you.
3. With respect to minutes from "weekly division meetings" of the "new ventures group," I can confirm that no such minutes exist. We have been informed by NAM that such meetings did not take place in a group format where minutes were recorded.
4. I can also confirm that all existing documents in NAM's possession, custody or control relating to minutes of meetings of the Smart Source iGroup have already been produced to you. Similarly, we can confirm that all existing unprivileged due diligence documents in NAM's possession, custody or control relating to NAM's acquisition of CCMI or NAM's

Atlanta • Bethesda • Boston • Chicago • Fort Lauderdale • Jacksonville • Lakeland • Los Angeles  
Miami • New York • Northern Virginia • Orlando • Portland • San Francisco  
Tallahassee • Tampa • Washington, D.C. • West Palm Beach  
Beijing • Caracas\* • Helsinki\* • Mexico City • Tel Aviv\* • Tokyo • \*Representative Office

David H. Rich, Esq.  
January 26, 2007  
Page 2

"strategic plan" concerning its acquisition of CCMI, Planet U and Softcard have already been produced to you. Consistent with our prior letter, NAM has indeed produced studies, strategic plans, projections and internal analyses concerning the CCMI acquisition. Further, I will also remind you that the due diligence documents you seek would have been at least six years old at the time of the filing of this suit.

5. We are also in receipt of the plaintiffs' Rule 30(b)(6) notice regarding NAM's electronic data retention. We have several objections to the scope of the notice. These include, but are not limited to:

- **The notice is overbroad, in several respects.**
  - First, the notice seeks information regarding *all* technology used at NAM. If you seek to learn the technology used by certain persons employed by NAM, then please amend the notice to say that. As currently phrased, the notice encompasses a number of topics that are not reasonably calculated to lead to the discovery of admissible evidence.
  - Second, even if plaintiffs tailor this request to the technology used by certain individuals, the request is still overly broad. For example, any information sought *to the present* is overbroad, with the exception of the storage capabilities on certain employees' computers. Information concerning NAM's networking capabilities, e-mail systems, and archiving/storage of information created *after* the departure of the plaintiffs from the organization would generally be outside the scope of reasonable discovery.
- **The notice seeks information protected by the attorney work-product doctrine.** I, personally, have coordinated the search for documents responsive to plaintiffs' requests in NAM's possession, custody or control. There is no one at NAM who has been coordinating this production apart from me, and my work in this regard is protected from disclosure by the attorney work-product doctrine.
- **The deposition will likely take place in southern Connecticut or New York City.** The person who appears at present to be the most knowledgeable regarding the information sought in the proposed Rule 30(b)(6) deposition notice divides his time between Wilton, Connecticut and New York City. Thus, the deposition will likely have to be in one of these two locations.

Subject to the above concerns, NAM will produce a witness in response to the proposed Rule 30(b)(6) notice. NAM also reserves its right to assert at the deposition additional objections to

David H. Rich, Esq.  
January 26, 2007  
Page 3

the scope of the deposition and otherwise. I will get back to you shortly with more information regarding possible dates and location.

Finally, please *do* provide us with the names of the first four witnesses whose depositions you seek to take. We will be glad to work with you regarding mutually convenient dates and locations for their depositions.

Please be aware that we, too, intend to notice several depositions in the near future. At present, we have determined that our initial deponents will be each of the two plaintiffs, Les Charm, and Robert Coughlin, although not necessarily in that order. We, of course, reserve the right to take additional depositions.

Very truly yours,



Gordon P. Katz

GPK/me-b

cc: Tara J. Myslinski, Esq.

## **EXHIBIT 12**

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email		Fontaine	Serio, Lellouche and Fireman		2000 – 2001 Highlights and Minutes - Volume 1
Email		Lellouche	Mixson, Garofalo	Raider	Krasdale
E-mail		Ludwig	Raider		Documents Supplied by Don Jack, January 2006-
E-mail		Ludwig	Bruther		Documents Supplied by Don Jack, January 2006-
E-mail		Raider	Jack and Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail		Ludwig	Tripp and Fireman		Documents Supplied by Don Jack, January 2006-
E-mail		Tripp	Mason, Silk, Michels, and Lellouche	Sellinger and Casey	Miscellaneous Meeting Minute E-mails
E-mail		Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazen, Brady, Pagnani, Lavallo, Loneragan, Mullin, Weeden, Westrell, Silverman, Lewen		Miscellaneous Meeting Minute E-mails
E-mail	6/2/1999	Wolfe	Willis		Deb Wolfe Documents V. 1
E-mail	6/9/1999	Wolfe	Willis		Deb Wolfe Documents V. 1
E-mail	6/15/1999	Fireman	Connolly		Deb Wolfe Documents V. 2
E-mail	6/15/1999	Fireman	Connolly		Deb Wolfe Documents V. 1
E-mail	6/18/1999	DeVoe, Jr.	Colovos		Deb Wolfe Documents V. 5
E-mail	6/18/1999	DeVoe, Jr.	Colovos		Deb Wolfe Documents V. 1
E-mail	7/12/1999	DeVoe, Jr.	Willis		Deb Wolfe Documents V. 5
E-mail	7/12/1999	DeVoe	Willis		Deb Wolfe Documents V. 5
E-mail	7/12/1999	DeVoe, Jr.	Willis		Deb Wolfe Documents V. 1
E-mail	7/12/1999	DeVoe, Jr.	Willis		Deb Wolfe Documents V. 1
E-mail	7/13/1999	Connolly	Fireman		Deb Wolfe Documents V. 2
E-mail	7/13/1999	Connolly	Fireman		Deb Wolfe Documents V. 1
E-mail	7/14/1999	DeVoe, Jr.	Willis		Deb Wolfe Documents V. 1
E-mail	7/20/1999	Fireman	Connolly		Deb Wolfe Documents V. 2
E-mail	7/20/1999	Fireman	Connolly		Deb Wolfe Documents V. 1
E-mail	7/21/1999	Fireman	Edelman		Deb Wolfe Documents V. 2
E-mail	7/21/1999	Fireman	Connolly		Deb Wolfe Documents V. 2
E-mail	7/22/1999	DeVoe, Jr.	Willis		Deb Wolfe Documents V. 5

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	7/23/1999	DeVoe, Jr.	Willis		Deb Wolfe Documents V. 5
E-mail	7/23/1999	Fireman	DeVoe, Jr.		Deb Wolfe Documents V. 1
E-mail	7/26/1999	Fireman	Connolly, Edelman		Deb Wolfe Documents V. 4
E-mail	7/27/1999	DeVoe, Jr.	Edelman, Openshaw, Rubin	Connolly	Deb Wolfe Documents V. 4
E-mail	7/28/1999	DeVoe, Jr.	Charm	Fireman, Rubin	Deb Wolfe Documents V. 5
E-mail	7/28/1999	Fireman	Connolly		Deb Wolfe Documents V. 2
E-mail	7/31/1999	DeVoe, Jr.	Fireman		Deb Wolfe Documents V. 5
E-mail	7/31/1999	DeVoe, Jr.	Fireman		Deb Wolfe Documents V. 1
E-mail	8/2/1999	Willis	Edelman		Deb Wolfe Documents V. 5
E-mail	8/2/1999	Willis	Edelman		Deb Wolfe Documents V. 4
E-mail	8/2/1999	Willis	Edelman		Deb Wolfe Documents V. 1
E-mail	8/3/1999	Fireman	Edelman		Deb Wolfe Documents V. 1
E-mail	8/5/1999	DeVoe, Jr.	Edelman	Moore	Deb Wolfe Documents V. 4
E-mail	8/5/1999	DeVoe, Jr.	Edelman		Deb Wolfe Documents V. 4
E-mail	8/13/1999	Fireman	Edelman		Deb Wolfe Documents V. 5
E-mail	8/13/1999	Edelman	Fireman		Deb Wolfe Documents V. 5
E-mail	8/13/1999	Edelman	Fireman		Deb Wolfe Documents V. 1
E-mail	8/13/1999	Fireman	Edelman		Deb Wolfe Documents V. 1
E-mail	8/13/1999	Fireman	Edelman		Deb Wolfe Documents V. 1
E-mail	8/16/1999	Fireman	Edelman		Deb Wolfe Documents V. 5
E-mail	8/16/1999	Fireman	Edelman		Deb Wolfe Documents V. 1
E-mail	8/17/1999	Fireman	Edelman		Deb Wolfe Documents V. 5
E-mail	8/17/1999	Fireman	Edelman		Deb Wolfe Documents V. 1
E-mail	8/17/1999	Fireman	Edelman		Deb Wolfe Documents V. 1
E-mail	8/18/1999	DeVoe, Jr.	Edelman, Rubin		Deb Wolfe Documents V. 4
E-mail	8/18/1999	DeVoe, Jr.	Edelman, Rubin		Deb Wolfe Documents V. 4
E-mail	8/30/1999	DeVoe, Jr.	Edelman		Deb Wolfe Documents V. 4

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	8/30/1999	DeVoe, Jr.	Edelman		Deb Wolfe Documents V. 4
E-mail	9/7/1999	DeVoe, Jr.	Edelman	Mallen	Deb Wolfe Documents V. 4
E-mail	9/8/1999	DeVoe, Jr.	Edelman		Deb Wolfe Documents V. 4
E-mail	9/8/1999	DeVoe, Jr.	Edelman		Deb Wolfe Documents V. 4
E-mail	9/14/1999	Gaffney	Borzumato		Documents Supplied by Don Jack, January 2006-
E-mail	9/21/1999	Gaffney	Fireman	Schena, Rubin, DeVoe, and Borzumato	Documents Supplied by Don Jack, January 2006-
E-mail	9/22/1999	Gaffney	Fireman and Coughlin	Schena, DeVoe, Borzumato, and Rubin	Documents Supplied by Don Jack, January 2006-
E-mail	10/7/1999	Gaffney	DeVoe and Campanelli	Schena, Bruchowsky, and Borzumato	Documents Supplied by Don Jack, January 2006-
E-mail	12/7/1999	DeVoe	Raider	Fireman and Moore	Documents Produced by Wanye Campanelli
E-mail	12/16/1999	DeVoe	Bacher		Documents Produced by Wanye Campanelli
E-mail	12/20/1999	Gaffney	Wolfe and Edelman	DeVoe, Campanelli, Fireman, Raider, and Coughlin	Documents Produced by Wanye Campanelli
E-mail	1/27/2000	DeVoe	Fireman and Lellouche		TRS and Entrance Targeting - Volume 2
Email	2/1/2000	DeVoe	Lellouche		Staffing Emails - Volume 1
Email	2/12/2000	Bruther	Lellouche		Staffing Emails - Volume 2
E-mail	2/14/2000	Suarez	Lellouche and Raider	Moore	Staffing Emails - Volume 2
Email	2/16/2000	Nicks	Lellouche, Moore, DeVoe and Raider		Staffing Emails - Volume 2
Email	2/17/2000	Nicks	Raider and Lellouche		Staffing Emails - Volume 2
Email	2/28/2000	DeGiorgio	Raider	Lellouche and Nicks	Staffing Emails - Volume 2
Email	2/28/2000	Suarez	Lellouche	Raider	Staffing Emails - Volume 2
E-mail	4/4/2000	Raider	Lellouche		Staffing Emails - Volume 2
Email	4/6/2000	Raider	Lellouche		Staffing Emails - Volume 2
Email	4/10/2000	Raider	Lellouche		Staffing Emails - Volume 1
E-mail	4/10/2000	DeVoe	Colovos		Documents Produced by Wanye Campanelli
E-mail	4/17/2000	Raider	Lellouche		Staffing Emails - Volume 2
E-mail	4/17/2000	Lellouche	DeVoe		TRS and Entrance Targeting - Volume 2
Email	5/1/2000	Suarez	Lellouche		Staffing Emails - Volume 2
Email	5/4/2000	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	5/11/2000	Tripp	Garofalo	Raider, Lellouche, Treharne, LeWorthy, Martin	2001-2001 Salespeople Highlights and Calendar
Email	5/19/2000	Fontaine	Lellouche		2000 – 2001 Highlights and Minutes - Volume 2
E-mail	5/19/2000	Fontaine	Lellouche		Henri Lellouche Document Production General Bi
Email	5/22/2000	Suarez	Coughlin	Lellouche	Staffing Emails - Volume 2
Email	5/23/2000	Raider	Lellouche		Staffing Emails - Volume 2
Email	5/26/2000	Mercure	LeWorthy		2001-2001 Salespeople Highlights and Calendar
E-mail	5/30/2000	DeVoe	Lellouche and Openshaw	Mixson	TRS and Entrance Targeting - Volume 2
Email	5/31/2000	Adam	Lellouche, Roseman		ABT Project
Email	5/31/2000	Mercure	LeWorthy	Lellouche	Staffing Emails - Volume 2
Email	6/2/2000	Fontaine	Lellouche		2000 – 2001 Highlights and Minutes - Volume 2
E-mail	6/2/2000	Fontaine	Lellouche		Henri Lellouche Document Production General Bi
Email	6/8/2000	Fontaine	LeWorthy		2000 – 2001 Highlights and Minutes - Volume 1
Email	6/8/2000	Nicks	Lellouche		Staffing Emails - Volume 2
Email	6/16/2000	Fontaine	Lellouche		Staffing Emails - Volume 1
Email	6/16/2000	Fontaine	Lellouche		Staffing Emails - Volume 1
E-mail	6/16/2000	Fireman	Lellouche		Stored Value Programs - Volume 3
Email	6/19/2000	Mixson	Lellouche	DeVoe	ABT Project
Email	6/29/2000	Weiss	Mosa	Suarez, Frauenhoffer, Moore and Lellouche	Staffing Emails - Volume 2
E-mail	6/30/2000	Raider	Lellouche		Staffing Emails - Volume 2
Email	7/5/2000	Mosa	Lellouche	Nicks	Staffing Emails - Volume 2
Email	7/7/2000	Fontaine	Lellouche		2000 – 2001 Highlights and Minutes - Volume 1
Email	7/7/2000	Nicks	Lellouche and Raider		Staffing Emails - Volume 2
Email	7/14/2000	Fontaine	LeWorthy and Lellouche		2000 – 2001 Highlights and Minutes - Volume 1
E-mail	7/17/2000	Raider	Lellouche		Staffing Emails - Volume 2
Email	7/18/2000	Raider	Lellouche		Staffing Emails - Volume 2
Email	7/20/2000	LeWorthy	Nicks	Mixson and Lellouche	Staffing Emails - Volume 1
Email	7/21/2000	Fontaine	Mixson		2000 – 2001 Highlights and Minutes - Volume 2



# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	7/21/2000	Tripp	Garofalo	Raider, Lellouche, Treharne, LeWorthy	2001-2001 Salespeople Highlights and Calendar
Email	7/28/2000	Fontaine	Lellouche		2000 – 2001 Highlights and Minutes - Volume 2
Email	7/28/2000	Fireman	Lellouche		Staffing Emails - Volume 2
Email	8/4/2000	Fontaine	Serio, Lellouche and Bruther		2000 – 2001 Highlights and Minutes - Volume 2
Email	8/4/2000	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	8/11/2000	Fontaine	Lellouche and Serio		2000 – 2001 Highlights and Minutes - Volume 1
Email	8/11/2000	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	8/17/2000	Serio	Lellouche		Staffing Emails - Volume 2
Email	8/18/2000	Fontaine	Serio, Lellouche and Fireman		2000 – 2001 Highlights and Minutes - Volume 1
Email	8/18/2000	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	8/25/2000	Fontaine	Serio, Fireman, Bruther and Lellouche		2000 – 2001 Highlights and Minutes - Volume 2
Email	8/25/2000	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	8/29/2000	Mumm	Fireman, Raider	Lellouche, Adam	Krasdale
Email	8/29/2000	Fireman	Lellouche		Retail Emails - Volume 2
Email	8/30/2000	Fontaine	Mumm, Fireman, Raider	Lellouche, Adam	Krasdale
Email	8/30/2000	Mumm	Lellouche		Krasdale
Email	8/30/2000	Mumm	Crowther	Geswell, Raider, Fireman	Produce Warehouse
Email	8/30/2000	Adam	Treiber, Mumm, Hughes, Roseman	Lellouche, Fireman	Produce Warehouse
Email	8/31/2000	Roseman	Lellouche		Retail Emails - Volume 3
Email	9/1/2000	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	9/1/2000	McAndrew	Serio, Fireman, Bruther, Lellouche, Mumm, Stappler, Mercure		2001-2001 Salespeople Highlights and Calendar
Email	9/1/2000	Mumm	Lellouche		Krasdale
Email	9/1/2000	Weeden	Eckman	Nesprido, Lellouche and Wogan	Retail Emails - Volume 4
Email	9/5/2000	Adam	Roseman and Lellouche		Retail Emails - Volume 4
Email	9/7/2000	Mumm	Lellouche		Produce Warehouse
Email	9/8/2000	Fontaine	Serio, Lellouche, Bruther and Fireman		2000 – 2001 Highlights and Minutes - Volume 1
Email	9/8/2000	Fireman	Lellouche		Retail Emails - Volume 1

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	9/11/2000	Tripp	Hughes	Adam, Roseman, Sellinger, Lellouche, Raider	Retail Emails - Volume 7
Email	9/11/2000	Tripp	Hughes	Adam, Roseman, Sellinger, Lellouche, Raider	Retail Emails - Volume 7
Email	9/11/2000	Coughlin	Fireman, Raider, Lellouche, Adam, Crowther, Roseman, Hughes		Retail Emails - Volume 8
Email	9/12/2000	Raider	Lellouche, Adam, Roseman	Fireman, Crowther, Mumm, Coughlin, Geswell, Treiber	Produce Warehouse
Email	9/13/2000	Fireman	Lellouche		ABT Project
Email	9/13/2000	Hughes	Coughlin	Adam, Roseman, Lellouche and Crowther	Retail Emails - Volume 6
Email	9/13/2000	Tripp	Hughes	Adam, Roseman, Sellinger, Lellouche, Raider	Retail Emails - Volume 7
Email	9/14/2000	Fireman	Lellouche		Retail Emails - Volume 7
Email	9/15/2000	Fontaine	Serio, Lellouche, Bruther and Fireman		2000 – 2001 Highlights and Minutes - Volume 1
Email	9/15/2000	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	9/18/2000	Adam	Fireman, Raider, Coughlin, Crowther, Roseman and Lellouche		Retail Emails - Volume 4
Email	9/18/2000	Adam	Coughlin, Crowther	Raider, Fireman, Roseman, Lellouche and Hughes	Retail Emails - Volume 6
Email	9/18/2000	Roseman	Hughes and Raider	Adam and Lellouche	Retail Emails - Volume 6
Email	9/18/2000	Fontaine	Lellouche		Staffing Emails - Volume 2
Email	9/19/2000	Tripp	Hughes	Roseman, Lellouche, Sellinger	Retail Emails - Volume 7
Email	9/22/2000	Fontaine	Serio, Lellouche and Fireman		2000 – 2001 Highlights and Minutes - Volume 1
Email	9/22/2000	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
E-mail	9/22/2000	Fireman	DeVoe		Stored Value Programs - Volume 4
Email	9/25/2000	Mixson	Lellouche	DeVoe, Benson and Mattimore	Staffing Emails - Volume 2
Email	9/29/2000	Fontaine	Serio, Lellouche and Fireman		2000 – 2001 Highlights and Minutes - Volume 1
Email	9/29/2000	Tripp	Garofalo	Lellouche, Raider, Sellinger, Treharne, Serio	2001-2001 Salespeople Highlights and Calendar
Email	9/30/2000	Adam	Raider	Lellouche, Roseman	Freeride
Email	10/3/2000	Roseman	Lellouche		Produce Warehouse
Email	10/3/2000	Mixson	Lellouche	Mattimore	Staffing Emails - Volume 2
Email	10/4/2000	Fontaine	Lellouche, Roseman	Adam	Freeride
Email	10/4/2000	Raider	Lellouche		Staffing Emails - Volume 2

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	10/4/2000	Fontaine	Lellouche		Stored Value Programs - Volume 1
E-mail	10/4/2000	Fireman	Lellouche		Stored Value Programs - Volume 1
Email	10/6/2000	Fontaine	Serio, Lellouche, Bruther and Fireman		2000 – 2001 Highlights and Minutes - Volume 2
Email	10/6/2000	Tripp	Garofalo	Lellouche, Raider, Sellinger, Treharne, Serio	2001-2001 Salespeople Highlights and Calendar
E-mail	10/6/2000	Henderson	Lellouche and Fireman	Constantine	Stored Value Programs - Volume 1
E-mail	10/8/2000	Fireman	Henderson and Lellouche	Constantine	Stored Value Programs - Volume 1
Email	10/9/2000	Coughlin	Lellouche, Fireman		Retail Emails - Volume 1
E-mail	10/9/2000	Fireman	Lellouche		Stored Value Programs - Volume 1
Email	10/11/2000	Fireman	Lellouche	Mixson and Raider	Retail Emails - Volume 4
E-mail	10/11/2000	Fireman	Lellouche		Stored Value Programs - Volume 1
E-mail	10/11/2000	Lellouche	Fireman and Raider		Stored Value Programs - Volume 4
Email	10/12/2000	Tripp	Garofalo		2001-2001 Salespeople Highlights and Calendar
Email	10/12/2000	Hughes	Adam, Coughlin, Raider, Roseman, Reed, Lellouche, Fireman		Retail Emails - Volume 8
Email	10/13/2000	Fontaine	Serio, Lellouche, Bruther and Fireman		2000 – 2001 Highlights and Minutes - Volume 1
Email	10/13/2000	Coughlin	Reed	Adam, Roseman, Fireman, Lellouche, Raider, Crowther	Retail Emails - Volume 8
Email	10/16/2000	Treiber	Adam	Roseman, Lellouche, Raider, Fireman, Stappler	Retail Emails - Volume 1
Email	10/17/2000	Treiber	Adam	Roseman, Lellouche, Raider, Fireman and Stappler	Retail Emails - Volume 6
E-mail	10/18/2000	Constantine	Fireman	Lellouche	Staffing Emails - Volume 1
E-mail	10/18/2000	Fireman	Constantine	Lellouche and Raider	Stored Value Programs - Volume 1
E-mail	10/18/2000	Fireman	Evans	Lellouche	Stored Value Programs - Volume 3
E-mail	10/19/2000	Evans	Fireman and Crowther	Lellouche	Stored Value Programs - Volume 3
Email	10/20/2000	Fontaine	Serio, Lellouche, Fireman and Bruther		2000 – 2001 Highlights and Minutes - Volume 1
Email	10/20/2000	Tripp	Garofalo	Lellouche, Raider, Sellinger, Treharne, Serio	2001-2001 Salespeople Highlights and Calendar
Email	10/23/2000	Mattimore	Lellouche		Staffing Emails - Volume 2
E-mail	10/23/2000	Fireman	Lellouche		Stored Value Programs - Volume 4
E-mail	10/23/2000	Fireman	Lellouche		Stored Value Programs - Volume 4
Email	10/24/2000	Fireman	Lellouche		iBelong

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	10/26/2000	Evans	Sturdivant	Newman, Lellouche, Coughlin, and Gaffney	Stored Value Programs - Volume 3
E-mail	10/26/2000	Sturdivant	Evans	Newman, Lellouche, Coughlin, and Gaffney	Stored Value Programs - Volume 3
E-mail	10/26/2000	Coughlin	Evans	Fireman, Lellouche, Crowther, and Racano	Stored Value Programs - Volume 4
Email	10/27/2000	McAndrew	Serio, Lellouche and Bruther		2001-2001 Salespeople Highlights and Calendar
Email	10/27/2000	McAndrew	Serio, Lellouche and Bruther		2001-2001 Salespeople Highlights and Calendar
Email	10/27/2000	DeVoe	Lellouche and Mixon		Retail Emails - Volume 6
E-mail	10/27/2000	Fireman	Lellouche		Stored Value Programs - Volume 3
Email	10/30/2000	Mixson	Lellouche		Retail Emails - Volume 2
Email	10/30/2000	Constantine	Lellouche	Fireman	Retail Emails - Volume 6
Email	10/30/2000	Mixson	Mattimore	Moore and Lellouche	Staffing Emails - Volume 2
Email	10/30/2000	Mixson	DeVoe	Carlucci and Lellouche	Staffing Emails - Volume 2
E-mail	10/31/2000	Fireman	Lellouche and Raider	Coughlin	Stored Value Programs - Volume 1
E-mail	11/1/2000	Fireman	Lellouche		Stored Value Programs - Volume 3
Email	11/2/2000	Fireman	Lellouche		iBelong
E-mail	11/2/2000	Fireman	Racano	Lellouche	Stored Value Programs - Volume 1
E-mail	11/2/2000	Fireman	Racano	Lellouche	Stored Value Programs - Volume 1
Email	11/3/2000	Fontaine	Serio, Lellouche, Fireman and Bruther		2000 – 2001 Highlights and Minutes - Volume 1
Email	11/3/2000	Fireman	Lellouche	Evans	ABT Project
Email	11/3/2000	Hughes	Evans	Coughlin and Lellouche	Retail Emails - Volume 6
E-mail	11/3/2000	Fireman	Lellouche and Mixson		Stored Value Programs - Volume 1
E-mail	11/3/2000	DeVoe	Lellouche	Campanelli	TRS and Entrance Targeting - Volume 2
Email	11/5/2000	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	11/6/2000	Fireman	Lellouche		ABT Project
E-mail	11/6/2000	Grieco	Campanelli and Racano	Lellouche, Ruchalski, and Bruther	Stored Value Programs - Volume 1
E-mail	11/6/2000	Bruther	Lellouche		Stored Value Programs - Volume 1
E-mail	11/6/2000	Roseman	Lellouche		Stored Value Programs - Volume 1
Email	11/7/2000	Lellouche	O'Connell	Mixson	Braintree to Boston Office Move

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	11/7/2000	Fontaine	Lellouche		Braintree to Boston Office Move
Email	11/10/2000	Fontaine	Serio, Lellouche, Fireman and Bruther		2000 – 2001 Highlights and Minutes - Volume 1
Email	11/10/2000	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	11/12/2000	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	11/15/2000	Fireman	Lellouche, Raider and Tripp	Mixson and Nicks	Staffing Emails - Volume 2
Email	11/15/2000	Nicks	Lellouche, Raider, Fireman and Tripp	Mixson, Sheridan and Moore	Staffing Emails - Volume 2
Email	11/16/2000	Stappaer	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	11/17/2000	Fontaine	Serio, Lellouche, Bruther and Fireman		2000 – 2001 Highlights and Minutes - Volume 1
Email	11/17/2000	Fontaine	Serio, Lellouche, Fireman and Bruther		2000 – 2001 Highlights and Minutes - Volume 1
Email	11/17/2000	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	11/21/2000	Tripp	Garofalo	Lellouche, Raider, Sellinger, Marmo, Lubin, Treharne, Serio	2001-2001 Salespeople Highlights and Calendar
Email	11/21/2000	Fireman	Raider, Lellouche		iBelong
Email	11/22/2000	Fireman	Lellouche	Mixson, Raider, Tripp, Roseman, Harde, Garofalo, Adam	iBelong
Email	11/29/2000	Fontaine	Lellouche		Retail Emails - Volume 7
Email	11/30/2000	Neff	Trippler, Fontaine	Lellouche, Myer, O'Connell	Braintree to Boston Office Move
Email	11/30/2000	Neff	O'Connell	Mixson, Lellouche, Moore, Liebergall, Leprine	Braintree to Boston Office Move
Email	11/30/2000	Bruther	Lellouche		Retail Emails - Volume 3
Email	11/30/2000	Bruther	Lellouche, Campanelli and Grieco		Retail Emails - Volume 7
Email	11/30/2000	Raider	Lellouche, Roseman, Adam, Treiber	Stappler, Bruther	Retail Emails - Volume 8
Email	11/30/2000	Nicks	Lellouche and Garofalo	Mixson and Mattimore	Staffing Emails - Volume 2
Email	12/1/2000	Fontaine	Serio		2000 – 2001 Highlights and Minutes - Volume 2
Email	12/1/2000	Bruther	Lellouche and Grieco		Retail Emails - Volume 5
Email	12/1/2000	Roberts	Raider	Lellouche and Sheridan	Staffing Emails - Volume 1
Email	12/1/2000	Roberts	Raider and Lellouche		Staffing Emails - Volume 2
Email	12/1/2000	Garofalo	Nicks and Lellouche	Mixson and Mittimore	Staffing Emails - Volume 2
E-mail	12/1/2000	Jack	Gaffney	Ludwig and McMellon	Documents Supplied by Don Jack, January 2006-
Email	12/4/2000	O'Connell	Lellouche		Braintree to Boston Office Move

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	12/5/2000	Fireman	Lellouche		ABT Project
E-mail	12/5/2000	Fireman	Lellouche		Stored Value Programs - Volume 1
E-mail	12/5/2000	Lewen	Lellouche and Fireman	Mixson	Stored Value Programs - Volume 4
Email	12/6/2000	Evans	Coughlin, Raider and Bruther	Lellouche and Gaffney	Retail Emails - Volume 5
Email	12/7/2000	Harde	Lellouche, Fireman		Infospace
Email	12/7/2000	Harde	Lellouche, Fireman		Infospace
Email	12/7/2000	Adam	Roseman, Lellouche, Harde, Fireman		Infospace
Email	12/7/2000	Fireman	Harde, Lellouche		Infospace
Email	12/8/2000	Fontaine	Serio, Lellouche and Fireman		2000 – 2001 Highlights and Minutes - Volume 1
Email	12/8/2000	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
E-mail	12/8/2000	Racano	Gaffney		Documents Supplied by Don Jack, January 2006-
E-mail	12/8/2000	Racano	Gaffney		Documents Supplied by Don Jack, January 2006-
E-mail	12/11/2000	Henderson	Lellouche	Constantine	TRS and Entrance Targeting - Volume 2
E-mail	12/12/2000	Jack	Coughlin	Gaffney and Ludwig	Documents Supplied by Don Jack, January 2006-
Email	12/13/2000	Evans	Raider	Coughlin, Bruther, Lellouche, Gaffney	Retail Emails - Volume 1
Email	12/15/2000	Fontaine	Serio, Lellouche, Fireman and Bruther		2000 – 2001 Highlights and Minutes - Volume 2
Email	12/15/2000	Tripp	Garofalo	Lellouche, Raider, Treharne, Serio, Sellinger, Lubin, Marmo	2001-2001 Salespeople Highlights and Calendar
Email	12/19/2000	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	12/19/2000	Fontaine	Lellouche		iBelong
Email	12/19/2000	Serio	Garofalo, Lellouche and Harde		Staffing Emails - Volume 1
Email	12/21/2000	Bruther	Lellouche		Braintree to Boston Office Move
Email	12/21/2000	Fontaine	Lellouche		Braintree to Boston Office Move
Email	12/21/2000	Fontaine	Lellouche		Braintree to Boston Office Move
Email	12/21/2000	Fontaine	Serio, Lellouche, Fireman	Bruther, Mumm, Stappler, London	Braintree to Boston Office Move
Email	12/21/2000	Fontaine	Lellouche		Braintree to Boston Office Move
Email	12/21/2000	Sinansky	Lellouche, O'Connell	Fontaine, Leprine, Neff, Sanjani	Braintree to Boston Office Move
E-mail	12/21/2000	Gaffney	Anello	Jack	Documents Supplied by Don Jack, January 2006-

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	12/21/2000	Hughes	Sabino		Documents Supplied by Don Jack, January 2006
Email	12/29/2000	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	1/4/2001	Fontaine	Lellouche		2000 – 2001 Highlights and Minutes - Volume 1
E-mail	1/4/2001	DeVoe	Fireman and Raider	Carlucci and Wolfe	Documents Produced by Wanye Campanelli
E-mail	1/4/2001	DeVoe, Jr.	Fireman, Raider	Carlucci, Wolfe	Deb Wolfe Documents V. 1
Email	1/5/2001	Fontaine	Serio and Lellouche		2000 – 2001 Highlights and Minutes - Volume 1
Email	1/5/2001	Fontaine	Serio, Lellouche and Fireman		2000 – 2001 Highlights and Minutes - Volume 1
Email	1/5/2001	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
E-mail	1/8/2001	Raider	DeVoe, Fireman	Carlucci, Wolfe	Deb Wolfe Documents V. 1
Email	1/12/2001	Fontaine	Serio, Lellouche and Fireman		2000 – 2001 Highlights and Minutes - Volume 1
Email	1/17/2001	Stern	Lellouche		Portal Development
Email	1/17/2001	Taylor	Lellouche	Harde, Rainforth, Stern	Portal Development
Email	1/17/2001	Mumm	Raider	Adam and Lellouche	Retail Emails - Volume 5
Email	1/18/2001	Adam	Fireman, Harde, Lellouche	Roseman	Portal Development
Email	1/19/2001	Fontaine	Serio, Lellouche and Fireman		2000 – 2001 Highlights and Minutes - Volume 1
Email	1/19/2001	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	1/19/2001	Bruther	Lellouche		Retail Emails - Volume 1
Email	1/19/2001	Fireman	Lellouche, Mumm, Adam	Crowther, Coughlin, Raider	Retail Emails - Volume 1
Email	1/19/2001	Raider	Mumm, Lellouche, Adam		Retail Emails - Volume 2
Email	1/20/2001	Mumm	Adam, Lellouche	Raider	Retail Emails - Volume 8
E-mail	1/23/2001	Benson	DeVoe and Racano	Benson	Documents Supplied by Don Jack, January 2006-
Email	1/24/2001	Mixson	Carlucci	Lellouche	ABT Project
Email	1/24/2001	Serio	NAM-I Group/all		Braintree to Boston Office Move
Email	1/24/2001	Hughes	Lellouche		Retail Emails - Volume 4
Email	1/24/2001	Mumm	Lellouche	Raider	Retail Emails - Volume 8
Email	1/26/2001	Fontaine	Serio, Lellouche, Fireman and Bruther		2000 – 2001 Highlights and Minutes - Volume 1
Email	1/26/2001	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	1/26/2001	Serio	NAM-I Group/all, Cleary		Braintree to Boston Office Move
Email	1/29/2001	Bruther	Lellouche	Raider	Retail Emails - Volume 5
Email	1/29/2001	Hughes	Lellouche		Retail Emails - Volume 7
Email	2/1/2001	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	2/6/2001	Mumm	Raider	Adam and Lellouche	Retail Emails - Volume 6
Email	2/7/2001	Fireman	Adam	Lellouche	Portal Development
Email	2/9/2001	Fontaine	Serio, Lellouche and Fireman		2000 – 2001 Highlights and Minutes - Volume 1
Email	2/9/2001	Tripp	Garofalo	Lellouche, Raider, Sellinger, Lubin, Marmo, Dilts, Steinmetz, Treharne, Serio	2001-2001 Salespeople Highlights and Calendar
Email	2/9/2001	Bruther	Lellouche		Retail Emails - Volume 1
Email	2/9/2001	Bruther	Raider	Lellouche	Retail Emails - Volume 1
E-mail	2/16/2001	Tripp	Lellouche and Fireman	Raider and Bruther	TRS and Entrance Targeting - Volume 2
E-mail	2/16/2001	Racano	Fireman and Raider	DeVoe	Documents Supplied by Don Jack, January 2006-
E-mail	2/16/2001	Racano	Fireman and Raider	DeVoe	Documents Supplied by Don Jack, January 2006-
E-mail	2/16/2001	Racano	Fireman, Raider	DeVoe, Jr.	Deb Wolfe Documents V. 1
Email	2/20/2001	Fontaine	Lellouche, Fireman and Bruther		2000 – 2001 Highlights and Minutes - Volume 1
Email	2/20/2001	Roseman	Lellouche		Retail Emails - Volume 2
Email	2/20/2001	Raider	Fireman, Lellouche and Mixson	Nicks	Staffing Emails - Volume 1
E-mail	2/20/2001	Tripp	Lellouche	Raider and Fireman	TRS and Entrance Targeting - Volume 2
E-mail	2/21/2001	Tripp	Lellouche	Raider and Fireman	TRS and Entrance Targeting - Volume 1
E-mail	2/21/2001	Tripp	Lellouche	Raider and Fireman	TRS and Entrance Targeting - Volume 2
Email	2/22/2001	Fontaine	Lellouche		Retail Emails - Volume 8
Email	2/23/2001	Fontaine	Serio and Lellouche		2000 – 2001 Highlights and Minutes - Volume 1
Email	2/23/2001	Fontaine	Bruther	Lellouche	Retail Emails - Volume 1
E-mail	2/26/2001	Tripp	Raider, Iellouche, and Fireman		TRS and Entrance Targeting - Volume 1
E-mail	2/28/2001	Fireman	Lellouche		TRS and Entrance Targeting - Volume 1
Email	3/2/2001	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	3/2/2001	Fontaine	Evans	Lellouche, Tripp, Bruther	Retail Emails - Volume 1



# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	3/2/2001	Fontaine	Bruther	Lellouche	Retail Emails - Volume 5
E-mail	3/2/2001	Fireman	Lellouche	Constantine	TRS and Entrance Targeting - Volume 1
Email	3/5/2001	Raider	Lellouche, Fireman and Mixson	Nicks	Staffing Emails - Volume 1
E-mail	3/5/2001	Raider	Lellouche		TRS and Entrance Targeting - Volume 1
Email	3/6/2001	Roseman	Lellouche	Adam	Retail Emails - Volume 3
Email	3/6/2001	Mumm	Raider	Cleary, Crowther, Coughlin and Lellouche	Retail Emails - Volume 4
Email	3/6/2001	Hughes	Raider	Roseman, Lellouche, Evans, Treiber	Retail Emails - Volume 7
E-mail	3/6/2001	Racano	Fireman and Raider	DeVoe	Documents Supplied by Don Jack, January 2006-
E-mail	3/6/2001	Racano	Fireman, Raider	DeVoe, Jr.	Deb Wolfe Documents V. 1
Email	3/7/2001	Raider	Lellouche		Aspen - Volume 3
Email	3/8/2001	Fireman	Lellouche		iBelong
E-mail	3/8/2001	Racano	Wolfe		Deb Wolfe Documents V. 1
Email	3/9/2001	Fontaine	Lellouche, Fireman and Campanelli		2000 – 2001 Highlights and Minutes - Volume 1
Email	3/9/2001	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
E-mail	3/9/2001	Racano	Gaffney		Documents Supplied by Don Jack, January 2006-
E-mail	3/9/2001	Racano	Gaffney		Documents Supplied by Don Jack, January 2006-
E-mail	3/9/2001	Racano	Gaffney		Documents Supplied by Don Jack, January 2006-
E-mail	3/9/2001	Bruther	Hurme	Roseman and Lellouche	Documents Supplied by Don Jack, January 2006
E-mail	3/9/2001	Racano	DeVoe	Wolfe	Documents Produced by Wanye Campanelli
E-mail	3/12/2001	Goodstadt	Lellouche		TRS and Entrance Targeting - Volume 2
Email	3/14/2001	Evans	Lellouche		ABT Project
Email	3/16/2001	Fontaine	Lellouche, Fireman and Campanelli		2000 – 2001 Highlights and Minutes - Volume 2
E-mail	3/16/2001	Benson	Mixson	Devoe, Harde, Lellouche, and Benson	TRS and Entrance Targeting - Volume 2
E-mail	3/16/2001	Mixson	DeVoe	Lellouche, Campanelli, Benson, and Carlucci	TRS and Entrance Targeting - Volume 2
Email	3/20/2001	Roberts	Raider and Lellouche		Staffing Emails - Volume 2
Email	3/23/2001	Fontaine	Serio, Lellouche, Fireman and Campanelli		2000 – 2001 Highlights and Minutes - Volume 2
Email	3/23/2001	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	3/23/2001	Fireman	Constantine	Lellouche	iBelong
Email	3/26/2001	Evans	Lellouche and Bruther		Retail Emails - Volume 7
Email	3/26/2001	Bruther	Evans and Lellouche		Retail Emails - Volume 7
E-mail	3/26/2001	Evans	Hurme		Documents Supplied by Don Jack, January 2006
Email	3/27/2001	Mixson	Carlucci, DeVoe, Benson	Lellouche	Krasdale
E-mail	3/28/2001	Bruther	Lellouche	Mixson	TRS and Entrance Targeting - Volume 2
E-mail	3/29/2001	Adam	Lellouche	Harde	TRS and Entrance Targeting - Volume 1
E-mail	3/29/2001	Bruther	Mixson and Lellouche		TRS and Entrance Targeting - Volume 2
Email	3/30/2001	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	3/30/2001	Fireman	Lellouche and Bruther	Raider, Mumm and Coughlin	Retail Emails - Volume 4
Email	4/2/2001	Fontaine	Lellouche, Fireman, Campanelli, Grieco and Raider		2000 – 2001 Highlights and Minutes - Volume 1
E-mail	4/2/2001	Adam	Harde and Lellouche		TRS and Entrance Targeting - Volume 1
E-mail	4/3/2001	Mixson	Carlucci and DeVoe	Benson, Campanelli, and Lellouche	TRS and Entrance Targeting - Volume 1
Email	4/6/2001	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
E-mail	4/6/2001	Mixson	Murdoch	Carlucci, Lellouche, and Lipsher	TRS and Entrance Targeting - Volume 2
Email	4/10/2001	Harde	Benson, Mixson and Lellouche	Adam, Bruther and Goodkin	Staffing Emails - Volume 2
E-mail	4/11/2001	Mixson	Garofalo, Lellouche, and Tripp		TRS and Entrance Targeting - Volume 1
E-mail	4/11/2001	Adam	Lellouche	Hughes and Treiber	TRS and Entrance Targeting - Volume 1
Email	4/12/2001	Fireman	Lellouche		Staffing Emails - Volume 1
Email	4/12/2001	Mixson	Campanelli	DeVoe, Lellouche, Raider and Garofalo	Staffing Emails - Volume 2
Email	4/13/2001	Fontaine	Lellouche, Fireman, Campanelli and Grieco		2000 – 2001 Highlights and Minutes - Volume 2
Email	4/13/2001	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	4/17/2001	Serio	Lellouche		Staffing Emails - Volume 2
Email	4/17/2001	Roberts	Raider and Lellouche		Staffing Emails - Volume 2
Email	4/17/2001	Roberts	Lellouche and Raider		Staffing Emails - Volume 2
Email	4/18/2001	Adam	Lellouche		Aspen - Volume 1
Email	4/20/2001	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	4/20/2001	Adam	Treiber, Hughes	Benson, Lellouche	Aspen - Volume 4
Email	4/20/2001	Raider	Lellouche		Promotions
Email	4/20/2001	Raider	Lellouche		Promotions
Email	4/20/2001	Raider	Lellouche		Promotions
Email	4/20/2001	Raider	Lellouche		Promotions
Email	4/20/2001	Litwin	Lellouche and Raider		Retail Emails - Volume 6
E-mail	4/20/2001	Litwin	Raider		Henri Lellouche Disc Production - Volume III
Email	4/23/2001	Raider	Fireman and Lellouche		Retail Emails - Volume 6
E-mail	4/23/2001	Evans	Jack		Documents Supplied by Don Jack, January 2006-
Email	4/24/2001	Fireman	Lellouche		iBelong
Email	4/24/2001	Fireman	Lellouche		iBelong
Email	4/24/2001	Nicks	Lellouche	Mixson and Roberts	Staffing Emails - Volume 1
E-mail	4/24/2001	Jack	Gaffney and Ludwig		Documents Supplied by Don Jack, January 2006-
Email	4/26/2001	Fontaine	Lellouche, Fireman, Raider, Tripp, Cleary, Coughlin, Campanelli and Adam		2000 – 2001 Highlights and Minutes - Volume 2
E-mail	4/26/2001	Maguire	Jack		Documents Supplied by Don Jack, January 2006-
Email	4/27/2001	Fontaine	Lellouche, Fireman, Bruther, Campanelli, Grieco and Serio		2000 – 2001 Highlights and Minutes - Volume 1
Email	4/27/2001	Tripp	Garofolo and Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	4/27/2001	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
E-mail	4/30/2001	Porlein	Lellouche	Luh	TRS and Entrance Targeting - Volume 2
E-mail	5/2/2001	Fireman	Lellouche	Mixson and Raider	Stored Value Programs - Volume 4
Email	5/4/2001	Fontaine	Serio and Lellouche		2000 – 2001 Highlights and Minutes - Volume 1
Email	5/4/2001	Fontaine	Serio and Lellouche		2000 – 2001 Highlights and Minutes - Volume 1
Email	5/4/2001	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	5/4/2001	Geswell	Lellouche		Aspen - Volume 1
Email	5/8/2001	Adam	Raider, Tripp	Lellouche, Hughes, Treiber	Aspen - Volume 4
E-mail	5/8/2001	Geswell	Lellouche		TRS and Entrance Targeting - Volume 2

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	5/9/2001	Treiber	Breslin	Raider, Adam, Lellouche	Aspen - Volume 4
Email	5/11/2001	Fontaine	Serio, Lellouche and Fireman		2000 - 2001 Highlights and Minutes - Volume 2
Email	5/11/2001	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	5/14/2001	Cleary	Evans, Treiber, Hughes, Reed and Adam	Coughlin, Crowther, Lellouche and Raider	Retail Emails - Volume 5
E-mail	5/15/2001	Evans	Fireman, Bruther, and Raider	Cleary, Coughlin, and Lellouche	Stored Value Programs - Volume 1
E-mail	5/15/2001	Adam	Raider, Benson, Litwin, Tripp, Harde, Lellouche, and Treiber		TRS and Entrance Targeting - Volume 1
Email	5/16/2001	Serio	Lellouche		Retail Emails - Volume 1
Email	5/16/2001	Raider	Fireman and Lellouche		Retail Emails - Volume 3
Email	5/16/2001	Fireman	Coughlin, Lellouche and Cleary		Retail Emails - Volume 3
Email	5/16/2001	Raider	Lellouche		Retail Emails - Volume 7
E-mail	5/16/2001	Fireman	Lellouche and Constantine		Stored Value Programs - Volume 3
Email	5/17/2001	Aversano	Bielot, Landy, Tibbs, Ringus, Mattimore, Arcuri, Roseman, Rubin, Fireman and Lellouche		Retail Emails - Volume 5
E-mail	5/17/2001	Bruther	Cleary, Fireman, Coughlin, and Evans	Lellouche, Campanelli, and Grieco	Stored Value Programs - Volume 1
Email	5/18/2001	Fontaine	Serio, Lellouche, Fireman, Grieco and Campanelli		2000 - 2001 Highlights and Minutes - Volume 2
Email	5/18/2001	Tripp	Garofolo		2001-2001 Salespeople Highlights and Calendar
Email	5/18/2001	Adam	Benson, Lellouche		Aspen - Volume 3
Email	5/18/2001	Bruther	Coughlin, Cleary	Lellouche, Campanelli, Grieco	Retail Emails - Volume 1
Email	5/18/2001	Aversano	Lellouche		Retail Emails - Volume 3
Email	5/18/2001	Cleary	Lellouche, Raider, Evans, Coughlin, Adam, Hughes, Reed and Treiber		Retail Emails - Volume 5
Email	5/18/2001	Roseman	Lellouche and Fireman	Aversano	Retail Emails - Volume 6
Email	5/18/2001	Cleary	Lellouche		Retail Emails - Volume 7
Email	5/21/2001	Fireman	Lellouche		Retail Emails - Volume 7
Email	5/22/2001	Litwin	Cleary, Raider, Lellouche		Retail Emails - Volume 7
E-mail	5/22/2001	Fireman	Coughlin, Bruther, Evans, Cleary, and Lellouche		Stored Value Programs - Volume 3
E-mail	5/22/2001	Fireman	Coughlin, Bruther, Lellouche, Cleary, and Evans		Stored Value Programs - Volume 3
Email	5/23/2001	Cleary	Coughlin, Reed and Hughes	Adam, Treiber, Lellouche and Mumm	Retail Emails - Volume 4

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	5/23/2001	Raider	Fireman and Lellouche		Retail Emails - Volume 5
Email	5/23/2001	Cleary	Coughlin, Reed and Hughes	Adam, Treiber, Lellouche and Mumm	Retail Emails - Volume 6
Email	5/23/2001	Bruther	Lellouche, Cleary, Coughlin, Crowther	Campanelli, Grieco	Retail Emails - Volume 7
Email	5/24/2001	Fireman	Litwin, Raider, Lellouche		OnVantage
Email	5/24/2001	Fireman	Litwin, Bruther, Raider, Lellouche		OnVantage
Email	5/24/2001	Bruther	Lellouche and Raider	Campanelli, Cleary, Coughlin, Grieco and Evans	Retail Emails - Volume 5
Email	5/24/2001	Fontaine	Lellouche, Aversano, Bilot, Landy, Tibbs, Ringus, Mattimore and Roseman	Arcuri, Rubin, Mixson, Garofalo, Raider and Porco	Retail Emails - Volume 5
E-mail	5/24/2001	DeVoe	Gaffney		Documents Supplied by Don Jack, January 2006-
Email	5/25/2001	Fontaine	Lellouche, Fireman and Bruther		2000 – 2001 Highlights and Minutes - Volume 2
Email	5/25/2001	Tripp	Garofalo		2001-2001 Salespeople Highlights and Calendar
Email	5/29/2001	Raider	Lellouche		Retail Emails - Volume 1
Email	5/29/2001	Gilleaudeau	Aversano, Molligo, Mattimore, Lellouche and Landy		Retail Emails - Volume 5
Email	5/30/2001	Bruther	Lellouche, Raider, Cleary and Coughlin	Campanelli and Grieco	Retail Emails - Volume 5
Email	5/31/2001	Adam	Roseman	Benson, Lellouche, Hughes, Bowker	Aspen - Volume 1
Email	5/31/2001	Landy	Aversano, Lellouche and Mattimore		Retail Emails - Volume 3
Email	6/1/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	6/1/2001	Fireman	Aversano	Lellouche	Retail Emails - Volume 4
Email	6/5/2001	Cleary	Evans and Raider	Bruther, Gaffney, Lellouche and Coughlin	Retail Emails - Volume 6
Email	6/5/2001	Cleary	Lellouche, Benson and Giovannone	Adam	Staffing Emails - Volume 2
Email	6/6/2001	Cleary	Hughes, Coughlin, Treiber, Reed, Adam	Lellouche	Retail Emails - Volume 1
Email	6/7/2001	Cleary	Lellouche, Hughes, Coughlin, Treiber, Reed and Adam		Retail Emails - Volume 6
Email	6/7/2001	Landy	Lellouche, Fireman, Aversano, Mattimore, Roseman, Molligo and Schulman		Retail Emails - Volume 6
Email	6/7/2001	Bruther	Campanelli, Lellouche	Grieco, Cleary	Retail Emails - Volume 8
Email	6/8/2001	Fontaine	Lellouche, Fireman, Campanelli and Bruther		2000 – 2001 Highlights and Minutes - Volume 2
Email	6/8/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	6/8/2001	Raider	Lellouche, Fireman		Aspen - Volume 1

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	6/8/2001	Raider	Lellouche		Aspen - Volume 3
Email	6/8/2001	Landy	Aversano, Mattimore, Fireman, Lellouche, Nelson and Roseman		Retail Emails - Volume 5
Email	6/11/2001	Cleary	Frauenhoffer	Lellouche	Staffing Emails - Volume 2
Email	6/12/2001	Landy	Aversano, Mattimore, Fireman, Lellouche, Roseman and Schulman		Retail Emails - Volume 5
Email	6/13/2001	Bruther	Cleary and Coughlin	Lellouche, Campanelli and Grieco	Retail Emails - Volume 4
Email	6/13/2001	Tripp	Lellouche		Staffing Emails - Volume 1
Email	6/14/2001	Treiber	Raider	Lellouche, Adam	Retail Emails - Volume 1
Email	6/15/2001	Fontaine	Lellouche, Fireman, Bruther, Grieco, Litwin, Mum and McKenna		2000 – 2001 Highlights and Minutes - Volume 2
Email	6/15/2001	Tripp	Lellouche	Raider, Mason, Sellinger	2001-2001 Salespeople Highlights and Calendar
Email	6/18/2001	Cleary	Lellouche, Fireman, Raider and Coughlin		Retail Emails - Volume 4
Email	6/18/2001	Cleary	Fireman, Lellouche, Raider and Coughlin		Retail Emails - Volume 6
Email	6/18/2001	Fireman	Cleary, Lellouche, Raider and Coughlin		Retail Emails - Volume 6
Email	6/18/2001	Raider	Cleary, Lellouche, Fireman and Coughlin		Retail Emails - Volume 6
Email	6/19/2001	Serio	Lellouche and Meyer		Staffing Emails - Volume 1
Email	6/20/2001	Adam	Lellouche		Aspen - Volume 1
E-mail	6/20/2001	Fireman	Lellouche		Stored Value Programs - Volume 3
Email	6/21/2001	Raider	Lellouche, Adam and Benson		Retail Emails - Volume 5
Email	6/22/2001	Fontaine	Lellouche, Fireman, Bruther, Grieco and Campanelli		2000 – 2001 Highlights and Minutes - Volume 1
Email	6/22/2001	Tripp	Lellouche	Raider, Sellinger, Mason	2001-2001 Salespeople Highlights and Calendar
Email	6/22/2001	Bruther	Coughlin, Cleary	Lellouche, Grieco	Retail Emails - Volume 1
Email	6/22/2001	Raider	Lellouche		
Email	6/26/2001	Treiber	Benson	Lellouche	Aspen - Volume 3
E-mail	6/26/2001	Coughlin	Gaffney	Cleary, Campanelli, Lellouche, and Grieco	Stored Value Programs - Volume 3
Email	6/27/2001	Treiber	Tripp, Sellinger	Raider, Lellouche, Adam, Hughes	Retail Emails - Volume 1
Email	6/27/2001	Treiber	Lellouche		Retail Emails - Volume 1
Email	6/28/2001	Treiber	Raider	Lellouche, Adam, Hughes	Aspen - Volume 4

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	6/28/2001	Litwin	Bruther, Campanelli, Grieco	Lellouche, Fireman, Raider	iBelong
E-mail	6/28/2001	Fireman	Lellouche		Stored Value Programs - Volume 4
Email	6/29/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	7/2/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	7/2/2001	Palko	Lellouche		Retail Emails - Volume 1
Email	7/5/2001	Litwin	Lellouche		Aspen - Volume 1
Email	7/5/2001	Litwin	Lellouche		Aspen - Volume 1
Email	7/5/2001	Litwin	Lellouche		Aspen - Volume 1
Email	7/5/2001	Litwin	Lellouche		Aspen - Volume 2
Email	7/5/2001	Litwin	Lellouche		Aspen - Volume 3
Email	7/5/2001	Litwin	Lellouche		Aspen - Volume 3
Email	7/5/2001	Litwin	Lellouche		Aspen - Volume 3
Email	7/5/2001	Litwin	Lellouche		Aspen - Volume 4
Email	7/6/2001	Fontaine	Lellouche, Fireman, Raider, Bruther, Grieco and Campanelli		2000 – 2001 Highlights and Minutes - Volume 1
Email	7/6/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	7/6/2001	Roberts	Lellouche		Staffing Emails - Volume 2
Email	7/9/2001	Fontaine	Lellouche and Carlucci		2000 – 2001 Highlights and Minutes - Volume 2
Email	7/10/2001	Bruther	Raider	Lellouche	Aspen - Volume 1
Email	7/10/2001	Treiber	Adam	Raider, Lellouche, Hughes and Reed	Retail Emails - Volume 4
Email	7/11/2001	Coughlin	Lellouche		Retail Emails - Volume 4
Email	7/12/2001	Litwin	Charboneau, Breslin, Fishkin, Raider, Lellouche	Fontaine, Geswell	Aspen - Volume 1
Email	7/12/2001	Litwin	Raider, Fontaine, Sellinger, Hughes, Adam, Lellouche, Bislam, Bowker, Tripp, Treiber	Fireman, McKenna, Mumm	Aspen - Volume 1
Email	7/12/2001	Treiber	Raider	Adam, Lellouche	Aspen - Volume 1
Email	7/12/2001	Raider	Adam, Litwin	Fireman, Lellouche, Tripp	Aspen - Volume 1
Email	7/13/2001	Fontaine	Lellouche, Fireman, Grieco and Campanelli		2000 – 2001 Highlights and Minutes - Volume 1
Email	7/13/2001	Tripp	Lellouche	Raider, Sellinger, Mason, Silk	2001-2001 Salespeople Highlights and Calendar

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	7/13/2001	Cleary	Treiber, Reed	MacArthur, Hughes, Raider, Lellouche	Retail Emails - Volume 7
Email	7/16/2001	Fontaine	Lellouche		2000 – 2001 Highlights and Minutes - Volume 2
Email	7/17/2001	Treiber	Raider	Lellouche	Retail Emails - Volume 3
Email	7/17/2001	Treiber	Raider	Adam, Lellouche and Hughes	Retail Emails - Volume 5
E-mail	7/17/2001	Fireman	Lellouche		Stored Value Programs - Volume 3
Email	7/18/2001	Raider	Lellouche, Fireman		Aspen - Volume 4
Email	7/18/2001	Adam	Raider	Treiber and Lellouche	Retail Emails - Volume 4
Email	7/19/2001	Raider	Adam, Treiber, Hughes	Lellouche	Aspen - Volume 1
Email	7/19/2001	Treiber	Raider, Lellouche	Hughes, Adam	Aspen - Volume 1
Email	7/19/2001	Geswell	Lellouche, Hurme and Raider	Cleary and Bruther	Retail Emails - Volume 6
Email	7/19/2001	Gaffney	Lellouche and Hurme	Cleary, Bruther, Geswell and Raider	Retail Emails - Volume 6
Email	7/19/2001	Porco	Lellouche		Retail Emails - Volume 6
Email	7/20/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	7/22/2001	Litwin	Fishkin	Raider, Adam, Hughes, Lellouche	Aspen - Volume 1
Email	7/23/2001	Fontaine	Lellouche, Fireman, Bruther, Grieco and Campanelli		2000 – 2001 Highlights and Minutes - Volume 1
Email	7/23/2001	Raider	Roberts	Lellouche	Staffing Emails - Volume 1
Email	7/23/2001	Mumm	Raider	Lellouche	Staffing Emails - Volume 2
Email	7/24/2001	Cleary	Raider	Lellouche	Retail Emails - Volume 5
Email	7/24/2001	Treiber	Adam	Lellouche	Retail Emails - Volume 8
Email	7/25/2001	Coughlin	Campanelli	Raider, Cleary, Lellouche, Grieco and Bruther	Retail Emails - Volume 6
Email	7/27/2001	Fontaine	Lellouche, Fireman, Bruther, Grieco, Litwin and McKenna		2000 – 2001 Highlights and Minutes - Volume 1
Email	8/1/2001	Pacca	Lellouche	Luteyn	Aspen - Volume 1
Email	8/1/2001	Fireman	Raider, Bruther, Tripp, Lellouche		Retail Emails - Volume 1
Email	8/1/2001	Fireman	Raider, Lellouche, Tripp and Bruther		Retail Emails - Volume 3
Email	8/3/2001	Fontaine	Lellouche, Fireman, Bruther, Campanelli, Grieco, Litwin and McKenna		2000 – 2001 Highlights and Minutes - Volume 1
Email	8/3/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar



# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	8/6/2001	Fontaine	Lellouche		Retail Emails - Volume 3
Email	8/6/2001	Fireman	Lellouche		Retail Emails - Volume 6
Email	8/7/2001	Bruther	Lellouche, Benson	Goodkin	Aspen - Volume 1
Email	8/7/2001	Pardo	Lellouche	Constantine, Frances, Raider	Aspen - Volume 3
Email	8/7/2001	Bruther	Campanelli, Lellouche	Coughlin, Raider	Retail Emails - Volume 1
Email	8/7/2001	Coughlin	Bruther	Cleary, Raider, Lellouche	Retail Emails - Volume 1
Email	8/7/2001	Adam	Lellouche		Retail Emails - Volume 4
Email	8/7/2001	Bruther	Lellouche, Fireman, Raider and Tripp	Campanelli and Grieco	Retail Emails - Volume 4
Email	8/8/2001	Raider	Lellouche		Retail Emails - Volume 3
Email	8/8/2001	Coughlin	Lellouche		Retail Emails - Volume 3
Email	8/8/2001	Hardy	Raider and Fireman	Lellouche and Bruther	Staffing Emails - Volume 1
Email	8/8/2001	Bruther	Lellouche and Campanelli		Retail Emails - Volume 5
E-mail	8/8/2001	Fireman	Lellouche and Constantine	Campanelli	Stored Value Programs - Volume 3
Email	8/10/2001	Fontaine	Lellouche, Fireman, Bruther, Grieco, Campanelli, Litwin and McKenna		2000 – 2001 Highlights and Minutes - Volume 1
Email	8/10/2001	Tripp	Lellouche	Raider, Sellinger, Silk, Mason	2001-2001 Salespeople Highlights and Calendar
Email	8/10/2001	Bruther	Lellouche and Campanelli		Retail Emails - Volume 4
Email	8/10/2001	Tripp	Lellouche	Bruther, Fireman and Raider	Retail Emails - Volume 5
Email	8/10/2001	Fireman	Lellouche	Campanelli and Constantine	Retail Emails - Volume 6
Email	8/10/2001	Tripp	Lellouche		Retail Emails - Volume 6
E-mail	8/10/2001	Fireman	Lellouche	Constantine and Campanelli	Stored Value Programs - Volume 3
Email	8/13/2001	Adam	Litwin, Raider, Lellouche, Hughes, Treiber, Bisram, Bowker	Benson	Aspen - Volume 4
Email	8/13/2001	Litwin	Lellouche	Raider	Aspen - Volume 4
Email	8/13/2001	Tripp	Nicks	Lellouche and Roberts	Staffing Emails - Volume 1
Email	8/14/2001	Cleary	Lellouche, Raider, Fireman, Tripp, Treiber, Adam, Coughlin, Bruther, Hughes, Reed		Retail Emails - Volume 1
E-mail	8/14/2001	Fireman	Lellouche		Stored Value Programs - Volume 3
Email	8/15/2001	Fireman	Lellouche, Trip, Raider, and Campanelli		Retail Emails - Volume 3

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	8/15/2001	Tripp	Fireman	Raider and Lellouche	
E-mail	8/15/2001	Fireman	Lellouche		Stored Value Programs - Volume 3
Email	8/17/2001	Fontaine	Lellouche, Fireman, Raider, Bruther, Grieco and Campanelli		2000 – 2001 Highlights and Minutes - Volume 2
Email	8/17/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
E-mail	8/17/2001	Fireman	Crowther, Cleary, Coughlin, Bruther, Lellouche, and Raider		Stored Value Programs - Volume 3
Email	8/20/2001	Bruther	Cleary and Coughlin	Lellouche	Retail Emails - Volume 4
Email	8/20/2001	Coughlin	McKenna and Lellouche	Raider, Cleary and Adam	Retail Emails - Volume 6
E-mail	8/20/2001	Hurme	Lellouche, Cleary, Bruther, and Campanelli	MacArthur	Stored Value Programs - Volume 4
E-mail	8/20/2001	Cleary	Hurme, Bruther, and Campanelli	MacArthur and Lellouche	Stored Value Programs - Volume 4
Email	8/21/2001	Raider	Lellouche, Fireman, Adam		Aspen - Volume 3
Email	8/21/2001	Litwin	Lellouche, Raider		Aspen - Volume 3
Email	8/21/2001	Litwin	Lellouche	Raider, Fireman, Adam	Aspen - Volume 4
Email	8/21/2001	Adam	Lellouche and McKenna	Benson and Christie	Retail Emails - Volume 4
Email	8/21/2001	Adam	Benson, Lellouche, McKenna, Christie		Retail Emails - Volume 8
Email	8/21/2001	Roberts	Christie and Lellouche		Staffing Emails - Volume 2
Email	8/23/2001	Cleary	Raider, Tripp, Lellouche, Coughlin, Fireman	Bruther, MacArthur, Hughes, Treiber, Adam, Reed	Retail Emails - Volume 1
Email	8/23/2001	Cleary	Reed, Treiber, Adam and Hughes	Raider, Lellouche, Benson and Coughlin	Retail Emails - Volume 6
Email	8/24/2001	Fontaine	Christie, Lellouche, Fireman and Campanelli		2000 – 2001 Highlights and Minutes - Volume 1
Email	8/24/2001	Mason	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	8/24/2001	Silk	Lellouche	Tripp	2001-2001 Salespeople Highlights and Calendar
Email	8/27/2001	Nicks	Tripp	Lellouche and Roberts	Staffing Emails - Volume 2
Email	8/28/2001	Litwin	Raider, Adam, McKenna, Hughes, Tripp, Lellouche, Fireman		Aspen - Volume 1
Email	8/28/2001	Treiber	Adam, Hughes, Lellouche		Aspen - Volume 4
Email	8/28/2001	Roberts	Lellouche, Nicks and Tripp		Staffing Emails - Volume 2
Email	8/29/2001	Bruther	Fireman	Lellouche	Aspen - Volume 4
Email	8/29/2001	Fireman	Lellouche and Christie		Retail Emails - Volume 4

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	8/29/2001	Fireman	Lellouche		Stored Value Programs - Volume 4
E-mail	8/29/2001	Rochelle	Lellouche		TRS and Entrance Targeting - Volume 2
Email	8/30/2001	Raider	Lellouche and Bruther		Retail Emails - Volume 3
E-mail	8/30/2001	Fireman	Lellouche		Stored Value Programs - Volume 4
E-mail	8/30/2001	Fireman	Lellouche		Stored Value Programs - Volume 4
Email	8/31/2001	Fontaine	Christie, Lellouche, Fireman, Bruther, Grieco and Campanelli		2000 – 2001 Highlights and Minutes - Volume 2
Email	8/31/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
E-mail	9/4/2001	Cleary	Fireman	Bruther, Lellouche and Campanelli	Stored Value Programs - Volume 3
E-mail	9/4/2001	Fireman	Bruther	Lellouche, Campanelli, and Cleary	Stored Value Programs - Volume 3
E-mail	9/5/2001	Fireman	Cleary and Bruther	Lellouche and Campanelli	Stored Value Programs - Volume 3
Email	9/6/2001	Treiber	Raider, Adam, Reed, Bowker, Joress, Lellouche, Gilpin, Leo, Litwin, Guttman, Poulos, Bisram, Reale, Doyle, Crane		Aspen - Volume 1
Email	9/6/2001	Treiber	Christie, Lellouche, Raider, Litwin	Adam, Hughes	Aspen - Volume 1
Email	9/7/2001	Fontaine	Christie, Lellouche, Fireman, Bruther, Grieco and Campanelli		2000 – 2001 Highlights and Minutes - Volume 1
Email	9/7/2001	Cleary	Lellouche, Fireman, Raider, Tripp, Coughlin, Adam, Bruther, Treiber, Carlucci, Christie and Campanelli		2000 – 2001 Highlights and Minutes - Volume 2
Email	9/7/2001	McKenna	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	9/7/2001	Tripp	Lellouche	Raider, Sellinger, Mason, Silk, Christie	2001-2001 Salespeople Highlights and Calendar
Email	9/7/2001	Hughes	McBean, Raider, Adam, Reed, Bowker, Joress, Lellouche, Gilpin, Leo, Litwin, Guttman, Poulos, Bisram, Reale, Treiber, Doyle, Crane		Aspen - Volume 1
E-mail	9/7/2001	Cleary	Lellouche, Fireman, Raider, Tripp, Coughlin, Adam, Bruther, Treiber, Carlucci, Christie, and Campanelli	Carlucci, Christie, Campanelli, and Grieco	
Email	9/10/2001	Cleary	Schulze and Lellouche		Staffing Emails - Volume 1
Email	9/10/2001	Bruther	Lellouche		Staffing Emails - Volume 2
Email	9/11/2001	Cleary	Meyer	Christie and Lellouche	Staffing Emails - Volume 2
Email	9/13/2001	Adam	Lellouche, Raider, Tripp	Cleary, Treiber, Hughes	Aspen - Volume 3
Email	9/13/2001	Raider	Lellouche		Retail Emails - Volume 4

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	9/13/2001	Cleary	Bruther	Lellouche and Coughlin	Retail Emails - Volume 5
Email	9/13/2001	Cleary	Lellouche		Retail Emails - Volume 5
Email	9/13/2001	Bruther	Campanelli and Lellouche	Cleary	Retail Emails - Volume 6
Email	9/13/2001	Tripp	Lellouche	Bruther and Raider	Staffing Emails - Volume 2
Email	9/13/2001	Raider	Lellouche	Bruther	Staffing Emails - Volume 2
Email	9/14/2001	Fontaine	Christie, Lellouche, Fireman, Bruther, Grieco and Campanelli		2000 – 2001 Highlights and Minutes - Volume 2
Email	9/14/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	9/14/2001	Ma	Lellouche	Gaffney, Borzumato, McMellin, Sanjani, Christie, Harde, Bruther, Campanelli, Benson	Aspen - Volume 1
Email	9/14/2001	Bruther	Lellouche and Campanelli	Tripp	Retail Emails - Volume 6
Email	9/17/2001	Bruther	Lellouche and Campanelli		Retail Emails - Volume 3
Email	9/17/2001	Lellouche	Bruther		Retail Emails - Volume 7
Email	9/18/2001	Bruther	Lellouche, Treiber, Raider, Adam		Aspen - Volume 4
Email	9/18/2001	Bruther	Lellouche, Treiber, Raider, Adam		Aspen - Volume 4
Email	9/19/2001	Treiber	Lellouche, Raider, Adam, Bruther		Aspen - Volume 4
Email	9/19/2001	Treiber	Lellouche	Raider, Adam, Reed and Cleary	Retail Emails - Volume 6
Email	9/19/2001	Raider	Treiber, Lellouche	Adam, Reed, Cleary	Retail Emails - Volume 7
Email	9/20/2001	McKenna	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	9/20/2001	McKenna	Adam	Lellouche	Retail Emails - Volume 2
Email	9/20/2001	Adam	Lellouche and McKenna		Retail Emails - Volume 3
Email	9/20/2001	Cleary	Sheridan	Lellouche	Staffing Emails - Volume 2
E-mail	9/20/2001	Jack	Bruther		Documents Supplied by Don Jack, January 2006-
Email	9/21/2001	Fontaine	Christie, Lellouche, Fireman and Campanelli		2000 – 2001 Highlights and Minutes - Volume 1
Email	9/21/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	9/21/2001	Treiber	Lellouche	Raider	Aspen - Volume 4
Email	9/21/2001	Conn	Dittrich, Mason, Litwin and Bedell	Roberts, Belka and Lellouche	Staffing Emails - Volume 1
E-mail	9/21/2001	Fontaine	Christie, Lellouche, Fireman, and Campanelli	Bruther, Grieco, and Litwin	Henri Lellouche Document Production General Bi

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	9/25/2001	Treiber	Cleary, Lellouche, Fireman, Raider, Tripp, Coughlin, Adam, Bruther, Christie, Campanelli		Aspen - Volume 1
Email	9/25/2001	Fontaine	Lellouche		Retail Emails - Volume 1
Email	9/27/2001	McKenna	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	9/27/2001	Cleary	Lellouche		Retail Emails - Volume 7
E-mail	9/27/2001	Cleary	Lellouche		Stored Value Programs - Volume 3
Email	9/28/2001	Fontaine	Christie, Lellouche, Fireman, Campanelli and Grieco		2000 – 2001 Highlights and Minutes - Volume 2
Email	9/28/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
E-mail	9/28/2001	Fireman	Lellouche		
E-mail	9/28/2001	Fireman	Grieco	Lellouche and Bruther	Stored Value Programs - Volume 3
E-mail	9/28/2001	Fontaine	Christie, Lellouche, Fireman, Campanelli, and Grieco	Bruther, Litwin, and McKenna	Henri Lellouche Document Production General Bi
Email	10/2/2001	Litwin	Lellouche		Retail Emails - Volume 2
Email	10/2/2001	Litwin	Lellouche		Retail Emails - Volume 3
E-mail	10/2/2001	Bruther	Lellouche		Stored Value Programs - Volume 2
E-mail	10/2/2001	Fireman	Lellouche		Stored Value Programs - Volume 4
Email	10/3/2001	Treiber	Lellouche	Adam, Raider	Aspen - Volume 1
Email	10/3/2001	Litwin	Treiber	Raider, Lellouche, Adam	Aspen - Volume 4
Email	10/3/2001	Treiber	Lellouche		Aspen - Volume 4
Email	10/5/2001	Fontaine	Christie, Lellouche, Fireman and Campanelli		2000 – 2001 Highlights and Minutes - Volume 2
Email	10/5/2001	McKenna	Fontaine		2001-2001 Salespeople Highlights and Calendar
Email	10/5/2001	Raider	Lellouche, Campanelli		Retail Emails - Volume 1
Email	10/5/2001	McKenna	Lellouche		Retail Emails - Volume 3
Email	10/5/2001	Coughlin	McKenna	Geswell, Cleary and Lellouche	Retail Emails - Volume 4
E-mail	10/5/2001	Fireman	Lellouche		Stored Value Programs - Volume 2
E-mail	10/5/2001	Fontaine	Christie, Lellouche, Fireman, and Campanelli	Grieco, Bruther, Litwin, and McKenna	Henri Lellouche Document Production General Bi
Email	10/8/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	10/9/2001	Treiber	Raider, Lellouche	Adam	Aspen - Volume 3
E-mail	10/9/2001	Bruther	Lellouche		Stored Value Programs - Volume 2

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	10/9/2001	Fireman	Christie	Lellouche	Stored Value Programs - Volume 3
Email	10/10/2001	Raider	Bruther	Cleary, Lellouche	Aspen - Volume 1
Email	10/10/2001	Treiber	McKenna	Raider, Lellouche, Adam	Retail Emails - Volume 1
Email	10/10/2001	Treiber	McKenna	Raider, Lellouche, Adam	Retail Emails - Volume 1
E-mail	10/10/2001	Bruther	Fireman and Lellouche		Stored Value Programs - Volume 3
E-mail	10/10/2001	Fireman	Lellouche		Stored Value Programs - Volume 3
Email	10/11/2001	Treiber	Christie, Lellouche, Fireman, Raider, Cleary, Tripp, Coughlin	Grieco, Adam, Bruther, Campanelli	Aspen - Volume 1
Email	10/11/2001	Lellouche	Raider	Treiber	Aspen - Volume 4
Email	10/12/2001	Fontaine	Christie, Lellouche, Fireman, Campanelli and Grieco		2000 – 2001 Highlights and Minutes - Volume 2
Email	10/12/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	10/12/2001	Tripp	Roberts	Conn and Lellouche	Staffing Emails - Volume 2
E-mail	10/12/2001	Fireman	Lellouche		Stored Value Programs - Volume 3
E-mail	10/12/2001	Lellouche	Constantine	Fireman	Stored Value Programs - Volume 3
E-mail	10/12/2001	Constantine	Lellouche and Campanelli	Christie and Fireman	Stored Value Programs - Volume 4
E-mail	10/12/2001	Fontaine	Christie, Lellouche, Fireman, Campanelli, and Grieco	Bruther, Litwin, and McKenna	Henri Lellouche Document Production General Bi
Email	10/15/2001	Raider	Lellouche	Adam	Aspen - Volume 3
E-mail	10/15/2001	Fireman	Lellouche	Bruther and Campanelli	Stored Value Programs - Volume 3
Email	10/16/2001	Adam	Lellouche		Aspen - Volume 3
E-mail	10/16/2001	Fireman	Lellouche, Campanelli, and Bruther	Constantine	Stored Value Programs - Volume 3
E-mail	10/16/2001	Fireman	Lellouche and Constantine		Stored Value Programs - Volume 3
E-mail	10/16/2001	Fireman	Lellouche		Stored Value Programs - Volume 3
Email	10/17/2001	Cleary	McKenna and Coughlin	Lellouche	Retail Emails - Volume 6
Email	10/18/2001	McKenna	Lellouche	Litwin, Fontaine	2001-2001 Salespeople Highlights and Calendar
Email	10/18/2001	Roberts	Lellouche		Staffing Emails - Volume 1
E-mail	10/18/2001	Fireman	Lellouche, Christie, Campanelli	Constantine	Stored Value Programs - Volume 3
E-mail	10/18/2001	Constantine	Fireman and Lellouche		Stored Value Programs - Volume 3
E-mail	10/18/2001	Fireman	Constantine	Lellouche and Christie	Stored Value Programs - Volume 3

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	10/19/2001	Fontaine	Christie, Lellouche, Campanelli and Fireman		2000 – 2001 Highlights and Minutes - Volume 1
Email	10/19/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	10/19/2001	Treiber	Bruther, Adam	Lellouche	Aspen - Volume 4
Email	10/19/2001	Kroc	Lellouche	Garofalo	Retail Emails - Volume 8
E-mail	10/19/2001	Fireman	Lellouche		Stored Value Programs - Volume 3
E-mail	10/19/2001	Fontaine	Christie, Lellouche, Campanelli, Fireman	Grieco, Bruther, Litwin, and McKenna	Henri Lellouche Document Production General Bi
Email	10/22/2001	Treiber	Lellouche		Aspen - Volume 4
Email	10/22/2001	Treiber	Lellouche		Aspen - Volume 1
Email	10/22/2001	Coughlin	Lellouche		Retail Emails - Volume 3
Email	10/22/2001	McKenna	Cleary	Coughlin and Lellouche	Retail Emails - Volume 4
Email	10/22/2001	Tripp	Lellouche and Raider	Silk	Staffing Emails - Volume 1
E-mail	10/22/2001	Moreno	Lellouche	Cole	Stored Value Programs - Volume 3
E-mail	10/22/2001	Christie	Lellouche		Stored Value Programs - Volume 3
Email	10/23/2001	Coughlin	Geswell	McKenna and Lellouche	Retail Emails - Volume 4
E-mail	10/23/2001	Fireman	Lellouche, Christie, and Geswell		Stored Value Programs - Volume 2
E-mail	10/23/2001	DeVoe	Lellouche		Stored Value Programs - Volume 3
E-mail	10/23/2001	Fireman	Cleary, Lellouche, and Bruther		Stored Value Programs - Volume 3
E-mail	10/23/2001	Constantine	Lellouche and Campanelli	Constantine, Christie, and Fireman	Stored Value Programs - Volume 3
E-mail	10/24/2001	Fireman	Lellouche, Constantine, and Campanelli	Christie	Stored Value Programs - Volume 3
E-mail	10/24/2001	Fireman	Lellouche, Constantine, and Campanelli	Christie	Stored Value Programs - Volume 3
E-mail	10/25/2001	Fireman	Lellouche		Stored Value Programs - Volume 2
E-mail	10/25/2001	Aversano	Lellouche		Stored Value Programs - Volume 2
E-mail	10/25/2001	Bruther	Lellouche and Campanelli		Stored Value Programs - Volume 3
E-mail	10/25/2001	Rochelle	Lellouche	Christie and Constantine	Stored Value Programs - Volume 3
E-mail	10/25/2001	Russo	Lellouche		Stored Value Programs - Volume 3
E-mail	10/25/2001	Fireman	Lellouche		Stored Value Programs - Volume 3
Email	10/26/2001	Fontaine	Christie, Lellouche, Fireman and Campanelli		2000 – 2001 Highlights and Minutes - Volume 1

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	10/26/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	10/26/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	10/26/2001	Roberts	Lellouche		Staffing Emails - Volume 2
E-mail	10/26/2001	Fontaine	Christie, Lellouche, Fireman, and Campanelli	Bruther, Grieco, Litwin, McKenna, and LeJeunesse	Henri Lellouche Document Production General Bi
Email	10/29/2001	LeJeunesse	Lellouche		Aspen - Volume 4
Email	10/30/2001	Fontaine	Lellouche		Retail Emails - Volume 1
Email	10/30/2001	Fontaine	Lellouche		Staffing Emails - Volume 2
E-mail	10/30/2001	Christie	Lellouche		Stored Value Programs - Volume 2
E-mail	10/30/2001	Christie	Lellouche		Stored Value Programs - Volume 2
E-mail	10/30/2001	Fireman	Lellouche		Stored Value Programs - Volume 3
E-mail	10/31/2001	Christie	Carlucci	Lellouche	Stored Value Programs - Volume 2
Email	11/1/2001	McKenna	Lellouche	Fontaine, Litwin, LeJeunesse	2001-2001 Salespeople Highlights and Calendar
Email	11/1/2001	Adam	Benson, Lellouche	Treiber	Aspen - Volume 3
Email	11/1/2001	Adam	Reale, Gilpin, Treiber	Benson, Lellouche, Litwin, Raider	Aspen - Volume 4
Email	11/1/2001	Treiber	Benson, Lellouche, Raider, Litwin	Adam	Aspen - Volume 4
Email	11/1/2001	Coughlin	McKenna	Lellouche and Cleary	Retail Emails - Volume 4
E-mail	11/1/2001	Davenport	Lellouche		Stored Value Programs - Volume 2
Email	11/2/2001	LeJeunesse	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	11/2/2001	Silk	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	11/2/2001	Silk	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	11/2/2001	Mason	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	11/2/2001	Mason	Lellouche, Tripp		2001-2001 Salespeople Highlights and Calendar
Email	11/2/2001	Treiber	Raider	Adam and Lellouche	Retail Emails - Volume 6
Email	11/5/2001	Fontaine	Lellouche, Fireman, Bruther, Grieco and Campanelli		2000 – 2001 Highlights and Minutes - Volume 1
Email	11/5/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	11/5/2001	Bruther	Raider	Lellouche	iBelong
E-mail	11/5/2001	Fontaine	Lellouche, Fireman, Bruther, Grieco, and Campanelli	Litwin, McKenna, and LeJeunesse	Henri Lellouche Document Production General Bi



# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	11/6/2001	Bruther	Raider, Lellouche		iBelong
Email	11/6/2001	Fireman	Raider, Lellouche, Bruther		Retail Emails - Volume 2
Email	11/7/2001	Raider	Lellouche		Retail Emails - Volume 2
Email	11/7/2001	Crowther	Lellouche		Retail Emails - Volume 5
E-mail	11/7/2001	Bruther	Breece	Lellouche and Campanelli	Stored Value Programs - Volume 3
E-mail	11/8/2001	Fireman	Lellouche		Stored Value Programs - Volume 2
E-mail	11/8/2001	Fireman	Lellouche		Stored Value Programs - Volume 2
E-mail	11/8/2001	Fireman	Lellouche		Stored Value Programs - Volume 2
E-mail	11/8/2001	Fireman	Lellouche		Stored Value Programs - Volume 2
E-mail	11/8/2001	Fireman	Bruther and Lellouche		Stored Value Programs - Volume 3
Email	11/9/2001	Fontaine	Christie, Lellouche, Fireman and Campanelli		2000 – 2001 Highlights and Minutes - Volume 2
Email	11/9/2001	LeJeunesse	SS I Group-Direct		2001-2001 Salespeople Highlights and Calendar
Email	11/9/2001	McKenna	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	11/9/2001	Tripp	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	11/9/2001	Litwin	Raider, McKenna, Lellouche, LeJeunesse, Bruther, Treiber, Campanelli, Gillin		Promotions
Email	11/9/2001	Treiber	Lellouche, Adam and McKenna		Retail Emails - Volume 4
Email	11/9/2001	Cleary	Christie, Lellouche, Tripp, Silk, Mason, Michaels, Bruther, Sonsky, and Sellinger	Campanelli	Retail Sales Meetings 2002-2003
Email	11/9/2001	Cleary	Christie, Lellouche, Raider, McKenna, LeJeunesse, Gillin, Litwin, Coughlin, Treiber and Bruther	Garofalo, Campanelli, Grieco and Fontaine	Retail Sales Meetings 2002-2003
E-mail	11/9/2001	Fireman	Bruther, Cleary, Lellouche, Crowther, and Coughlin		Stored Value Programs - Volume 3
E-mail	11/9/2001	Fireman	Cleary, Bruther, Lellouche, Crowther, and Coughlin	Campanelli	Stored Value Programs - Volume 3
E-mail	11/9/2001	Fontaine	Christie, Lellouche, Fireman, and Campanelli	Bruther, Litwin, and Grieco	Henri Lellouche Document Production General Bi
E-mail	11/9/2001	Cleary	Christie, Lellouche, Tripp, Silk, Mason, Michels, Bruther, Sonsky, and Sellinger	Campanelli and Mixson	Miscellaneous Meeting Minute E-mails
E-mail	11/12/2001	Holzhacker	Lellouche		Stored Value Programs - Volume 2
E-mail	11/12/2001	Holzhacker	Lellouche		Stored Value Programs - Volume 3
Email	11/13/2001	Treiber	Adam	Hughes, Raider and Lellouche	Retail Emails - Volume 6

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	11/13/2001	Adam	Lellouche		TRS and Entrance Targeting - Volume 1
E-mail	11/13/2001	Gaffney	Jack	Racano	Documents Supplied by Don Jack, January 2006
E-mail	11/13/2001	Sellinger	Christie, Lellouche, Tripp, Campanelli, Bruther, Cleary, Silk, Mason, Michels, and Sonsky		Miscellaneous Meeting Minute E-mails
Email	11/14/2001	Bruther	Lellouche		Retail Emails - Volume 5
E-mail	11/14/2001	Tripp	Lellouche	Adam and Silk	TRS and Entrance Targeting - Volume 2
Email	11/15/2001	LeJeunesse	Lellouche		2001-2001 Salespeople Highlights and Calendar
Email	11/15/2001	LeJeunesse	Adam	Lellouche	Retail Emails - Volume 1
Email	11/15/2001	Raider	Lellouche, Campanelli	Bruther, Fireman, Tripp	Retail Emails - Volume 1
Email	11/15/2001	McKenna	Constantine	Lellouche	Retail Emails - Volume 3
Email	11/15/2001	McKenna	Coughlin	Lellouche and Cleary	Retail Emails - Volume 6
Email	11/15/2001	Coughlin	McKenna	Lellouche and Cleary	Retail Emails - Volume 6
E-mail	11/15/2001	Fireman	Lellouche		Stored Value Programs - Volume 3
E-mail	11/15/2001	Harde	Adam, Tripp, and Lellouche	Silk	TRS and Entrance Targeting - Volume 2
Email	11/16/2001	Fontaine	Christie, Lellouche, Bruther, Campanelli and Grieco		2000 – 2001 Highlights and Minutes - Volume 1
Email	11/16/2001	Mason	Lellouche, Tripp		2001-2001 Salespeople Highlights and Calendar
Email	11/16/2001	McKenna	Lellouche	Fontaine, Gillin, Litwin, LeJeunesse	2001-2001 Salespeople Highlights and Calendar
Email	11/16/2001	Michels	Lellouche, Tripp		2001-2001 Salespeople Highlights and Calendar
Email	11/16/2001	Treiber	Raider	Lellouche, Adam	Retail Emails - Volume 1
Email	11/16/2001	Bruther	Lellouche	Raider	Retail Emails - Volume 5
Email	11/16/2001	McKenna	Coughlin	Lellouche and Cleary	Retail Emails - Volume 6
Email	11/16/2001	Fontaine	Lellouche		Retail Sales Meetings 2002-2003
E-mail	11/16/2001	Fireman	Lellouche		Stored Value Programs - Volume 1
E-mail	11/16/2001	Holzacker	Lellouche		Stored Value Programs - Volume 2
E-mail	11/16/2001	Fontaine	Christie, Lellouche, Bruther, Campanelli, and Grieco	Litwin and Fireman	Henri Lellouche Document Production General Bi
Email	11/19/2001	Tripp	Lellouche	Raider, Sellinger, Mason, Silk, Michels, Christie	2001-2001 Salespeople Highlights and Calendar
Email	11/19/2001	Coughlin	Bruther, Christie, Gillin, LeJeunesse, Lellouche, Litwin, McKenna, Raider, Treiber	Campanelli, Cleary, Fontaine, Garofalo, Grieco	Retail Sales Meetings 2002-2003

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	11/20/2001	McKenna	Lellouche		Retail Emails - Volume 3
Email	11/20/2001	McKenna	Lellouche and Coughlin	Cleary, Adam and Treiber	Retail Emails - Volume 6
Email	11/20/2001	Coughlin	McKenna and Lellouche	Cleary, Adam and Treiber	Retail Emails - Volume 6
Email	11/21/2001	LeJeunesse	SS I Group-Direct		Retail Sales Meetings 2002-2003
E-mail	11/23/2001	Fireman	Lellouche	Christie	Stored Value Programs - Volume 3
Email	11/26/2001	Fontaine	Lellouche and Christie		2000 – 2001 Highlights and Minutes - Volume 2
Email	11/26/2001	Fontaine	Christie, Lellouche, Fireman	Bruther, Litwin, LeJeunesse, Gillin, Grieco, Campanelli, LeWorthy	Retail Sales Meetings 2002-2003
Email	11/26/2001	Coughlin	Bruther, Christie, Gillin, LeJeunesse, Lellouche, LeWorthy, Litwin, McKenna, Raider, Treiber	Campanelli, Cleary, Fontaine, Garofalo, Grieco	Retail Sales Meetings 2002-2003
Email	11/26/2001	Gillin	Lellouche	McKenna, LeJeunesse and Litwin	Retail Sales Meetings 2002-2003
Email	11/26/2001	McKenna	Lellouche	Fontaine, Gillin, LeJeunesse and Litwin	Retail Sales Meetings 2002-2003
Email	11/26/2001	LeWorthy	Annis-Lopez	Christie, Harde, Lellouche and Jenson	Staffing Emails - Volume 2
E-mail	11/26/2001	Fontaine	Lellouche	Fireman, Raider, Cleary, Adam, Treiber, Coughlin, Tripp, Bruther, and LeWorthy	Henri Lellouche Document Production General Bi
E-mail	11/26/2001	Sellinger	Christie, Lellouche, Tripp, Campanelli, Cleary, Bruther, Silk, Mason, Michels, Sonksy		Miscellaneous Meeting Minute E-mails
Email	11/28/2001	Treiber	Lellouche	Raider, Adam	Retail Emails - Volume 1
E-mail	11/28/2001	Adam	Christie	Benson, Harde, and Lellouche	TRS and Entrance Targeting - Volume 1
E-mail	11/28/2001	Sellinger	Christie, Lellouche, Tripp, Campanelli, Cleary, Bruther, Silk, Mason, Michels, Sonksy		Miscellaneous Meeting Minute E-mails
Email	11/29/2001	Raider	Lellouche	Adam, Hughes, Treiber	Retail Emails - Volume 1
Email	11/29/2001	Treiber	Lellouche	Adam	Retail Emails - Volume 1
Email	11/29/2001	Cleary	Lellouche	Coughlin	Staffing Emails - Volume 2
Email	11/30/2001	Treiber	Tripp, Raider	Lellouche, Adam, Hughes, Sellinger	Retail Emails - Volume 1
Email	11/30/2001	LeJeunesse	Lellouche, Christie		Retail Emails - Volume 7
Email	11/30/2001	LeJeunesse	Christie, Lellouche		Retail Emails - Volume 7
Email	11/30/2001	Fontaine	Lellouche, Campanelli, Bruther, Fireman, Grieco, Litwin		Retail Sales Meetings 2002-2003
Email	11/30/2001	Lellouche	SS I Group-Direct		Retail Sales Meetings 2002-2003

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	11/30/2001	Bruther	Fireman and Lellouche	Campanelli and Christie	Stored Value Programs - Volume 1
Email	12/2/2001	Treiber	Lellouche and Raider	Adam, Hughes, Reale and Cleary	Retail Emails - Volume 6
Email	12/3/2001	LeJeunesse	Lellouche and Christie		Retail Emails - Volume 4
Email	12/3/2001	Coughlin	Bruther, Christie, Gillin, LeJeunesse, Lellouche, LeWorthy, Litwin, McKenna, Raider, Treiber	Campanelli, Cleary, Fontaine, Garofalo, Grieco	Retail Sales Meetings 2002-2003
Email	12/3/2001	Gillin	Lellouche	McKenna and LeJeunesse	Retail Sales Meetings 2002-2003
Email	12/3/2001	McKenna	Lellouche	Fontaine, Gillin, Litwin and LeJeunesse	Retail Sales Meetings 2002-2003
E-mail	12/3/2001	Fireman	Lellouche and Bruther		Stored Value Programs - Volume 1
Email	12/4/2001	Treiber	Raider and Lellouche	Adam	Retail Emails - Volume 4
E-mail	12/4/2001	Fireman	Constantine	Lellouche	Stored Value Programs - Volume 1
Email	12/5/2001	Litwin	Lellouche	Adam, Raider	Aspen - Volume 4
Email	12/5/2001	Tripp	Mason, Silk, Michels	Lellouche	Donations Direct
Email	12/6/2001	Gillin	Adam	Lellouche and Coughlin	Retail Emails - Volume 4
Email	12/7/2001	Cleary	Raider, Lellouche, Adam, Treiber, Reed	Coughlin	Retail Emails - Volume 1
Email	12/7/2001	Hughes	Benson, Raider and Lellouche	Adam and Litwin	Retail Emails - Volume 6
Email	12/7/2001	Gillin	Lellouche	McKenna and LeJeunesse	Retail Sales Meetings 2002-2003
Email	12/7/2001	Fontaine	Christie, Lellouche, Fireman, Campanelli and Grieco	Bruther, Litwin, McKenna, LeJeunesse and Gillin	Retail Sales Meetings 2002-2003
Email	12/7/2001	LeJeunesse	SS I Group-Direct		Retail Sales Meetings 2002-2003
Email	12/9/2001	McKenna	Lellouche	Gillin, Litwin, Fontaine and LeJeunesse	Retail Sales Meetings 2002-2003
Email	12/11/2001	Adam	Lellouche, Fireman, Raider, McKenna, Treiber, Litwin, LeJeunesse, Gillin	Benson	Microsites
Email	12/11/2001	Yarzynski	Lellouche, Christie, Jenson		Retail Emails - Volume 7
E-mail	12/11/2001	Sellinger	Christie, Lellouche, Tripp, Michels, Slik, Mason, Cleary, Bruther, Sonksy, and Campanelli		Miscellaneous Meeting Minute E-mails
E-mail	12/12/2001	Fireman	Lellouche		Stored Value Programs - Volume 1
Email	12/13/2001	Treiber	McKenna	Adam and Lellouche	Retail Emails - Volume 4
Email	12/14/2001	Adam	Lellouche	Benson	Retail Emails - Volume 4
Email	12/14/2001	Treiber	McKenna	Adam, Lellouche	Retail Emails - Volume 7
Email	12/14/2001	Fontaine	Lellouche		Retail Sales Meetings 2002-2003

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	12/14/2001	Fontaine	Christie, Lellouche, Fireman, Campanelli and Grieco	Bruther, Litwin, LeJeunesse, McKenna and Gillin	Retail Sales Meetings 2002-2003
Email	12/14/2001	Fontaine	Christie, Lellouche, Fireman, Campanelli and Grieco	Bruther, McKenna, Gillin and LeJeunesse	Retail Sales Meetings 2002-2003
Email	12/14/2001	Gillin	Lellouche	Litwin, McKenna and LeJeunesse	Retail Sales Meetings 2002-2003
E-mail	12/14/2001	Fireman	Constantine	Lellouche	Stored Value Programs - Volume 1
E-mail	12/14/2001	Adam	Lellouche		TRS and Entrance Targeting - Volume 1
E-mail	12/14/2001	Bruther	Adam, Lellouche, and Campanelli		TRS and Entrance Targeting - Volume 2
Email	12/17/2001	Treiber	Lellouche		Retail Emails - Volume 7
Email	12/17/2001	Coughlin	Bruther, Christie, Gillin, LeJeunesse, Lellouche, LeWorthy, Litwin, McKenna, Raider and Treiber	Campanelli, Cleary, Fontaine, Garofalo and Grieco	Retail Sales Meetings 2002-2003
E-mail	12/17/2001	Fireman	Constantine	Lellouche and Fontaine	Stored Value Programs - Volume 2
E-mail	12/17/2001	Bruther	Adam	Lellouche and Campanelli	TRS and Entrance Targeting - Volume 2
E-mail	12/18/2001	Christie	Lellouche		TRS and Entrance Targeting - Volume 1
Email	12/19/2001	Bruther	Lellouche		Aspen - Volume 1
Email	12/19/2001	Bruther	LeJeunesse	Lellouche	Aspen - Volume 4
E-mail	12/19/2001	Fireman	Constantine and Lellouche		Stored Value Programs - Volume 1
Email	12/20/2001	Bruther	Raider, McKenna, LeJeunesse, Gillin	Lellouche, Christie	Aspen - Volume 1
Email	12/20/2001	Litwin	Lellouche	Raynforth	Aspen - Volume 1
Email	12/20/2001	Adam	Raider, Fireman, Litwin, McKenna, LeJeunesse, Gillin	Lellouche, Treiber	Microsites
Email	12/20/2001	Gillin	Christie, Lellouche		Retail Sales Meetings 2002-2003
E-mail	12/20/2001	Sellinger	Christie, Lellouche, Tripp, Michels, Silk, Mason, Cleary, Bruther, and Sonsky		Miscellaneous Meeting Minute E-mails
Email	12/21/2001	Tripp	Lellouche	Fireman	Donations Direct
Email	12/21/2001	Bruther	Treiber, Cleary, Adam and LeJeunesse	Lellouche	Retail Emails - Volume 3
Email	12/21/2001	Gillin	Lellouche	LeJeunesse and McKenna	Retail Sales Meetings 2002-2003
E-mail	12/21/2001	Bruther	Christie and Lellouche	Campanelli	TRS and Entrance Targeting - Volume 2
Email	12/26/2001	McKenna	Lellouche	Fontaine, Gillin, LeJeunesse and Litwin	Retail Sales Meetings 2002-2003
Email	12/26/2001	LeJeunesse	Adam, Cleary, Coughlin, Gillin, Lellouche, Litwin, McKenna, Raider, Treiber and Tripp		Retail Sales Meetings 2002-2003
Email	12/28/2001	LeJeunesse	Lellouche		Retail Emails - Volume 1

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	1/3/2002	Raider	Christie, Lellouche		Retail Emails - Volume 1
E-mail	1/3/2002	Litwin	Lellouche	Fireman, Fontaine and Raider	Stored Value Programs - Volume 2
E-mail	1/3/2002	Sellinger	Christie, Lellouche, Tripp, Cleary, Bruther, Sonsky, Silk, Mason, Michels, and Campanelli		Miscellaneous Meeting Minute E-mails
Email	1/4/2002	Treiber	Lellouche		Retail Emails - Volume 3
Email	1/4/2002	Treiber	Lellouche and Raider	Adam and Hughes	Retail Emails - Volume 6
Email	1/4/2002	Coughlin	Bruther, Christie, Gillin, LeJeunesse, Lellouche, LeWorthy, Litwin, McKenna, Raider, Treiber	Campanelli, Cleary, Fontaine, Garofalo, Grieco	Retail Sales Meetings 2002-2003
Email	1/4/2002	Fontaine	Christie, Lellouche, Fireman, McKenna, Litwin, LeJeunesse, Gillin	Bruther, Grieco and Campanelli	Retail Sales Meetings 2002-2003
Email	1/4/2002	Gillin	Lellouche	McKenna, LeJeunesse and Raider	Retail Sales Meetings 2002-2003
E-mail	1/4/2002	Adam	Lellouche, Bruther, and Raider	Harde	TRS and Entrance Targeting - Volume 1
E-mail	1/4/2002	Racano	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	1/4/2002	Racano	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	1/4/2002	Racano	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	1/4/2002	Racano	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	1/4/2002	Racano	Ludwig		Deb Wolfe Documents V. 1
E-mail	1/4/2002	Racano	Ludwig		Deb Wolfe Documents V. 1
E-mail	1/4/2002	Racano	Ludwig		Deb Wolfe Documents V. 1
Email	1/7/2002	Fontaine	Lellouche, Fireman		Donations Direct
Email	1/7/2002	Litwin	Lellouche		Microsites
Email	1/7/2002	Litwin	Lellouche, Raider, Adam		Retail Emails - Volume 1
Email	1/7/2002	McKenna	Lellouche	Gillin, Raider, Fontaine, LeJeunesse, Litwin and LeWorthy	Retail Sales Meetings 2002-2003
Email	1/7/2002	LeJeunesse	Adam, Cleary, Coughlin, Gillin, Lellouche, Litwin, McKenna, Raider, Treiber and Tripp		Retail Sales Meetings 2002-2003
Email	1/8/2002	Gillin	Lellouche		Retail Emails - Volume 7
Email	1/9/2002	Tripp	Mason, Silk, Michels	Sellinger, Lellouche	Donations Direct
Email	1/9/2002	Adam	Gillin, Lellouche		Microsites
Email	1/9/2002	Adam	Lellouche		Microsites

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	1/9/2002	Adam	Gillin, Lellouche		Microsites
Email	1/9/2002	Adam	Gillin, Lellouche		Microsites
Email	1/9/2002	Raider	Bruther, Lellouche	Quinn	Retail Emails - Volume 1
E-mail	1/9/2002	Jack	Racano	Ludwig	Documents Supplied by Don Jack, January 2006-
E-mail	1/9/2002	Jack	Racano	Ludwig	Documents Supplied by Don Jack, January 2006-
E-mail	1/9/2002	Jack	Racano	Ludwig	Documents Supplied by Don Jack, January 2006
E-mail	1/9/2002	Jack	Racano	Ludwig	Deb Wolfe Documents V. 1
Email	1/11/2002	LeJeunesse	Adam, Christie, Fireman, Jenson, Lellouche, Tripp		Retail Emails - Volume 7
Email	1/11/2002	Fontaine	Christie, Lellouche, Fireman, Campanelli and Grieco	Bruther and Litwin	Retail Sales Meetings 2002-2003
Email	1/12/2002	McKenna	Lellouche	Fontaine, LeJeunesse, Litwin and Gillin	Retail Sales Meetings 2002-2003
Email	1/14/2002	Cleary	Lellouche		Retail Emails - Volume 2
Email	1/14/2002	Fontaine	Lellouche		Retail Sales Meetings 2002-2003
Email	1/14/2002	Gillin	Lellouche, LeJeunesse, McKenna, Raider	Kroc and Sutherland	Retail Sales Meetings 2002-2003
Email	1/14/2002	LeJeunesse	Adam, Cleary, Coughlin, Gillin, Lellouche, Litwin, McKenna, Raider, Treiber and Tripp		Retail Sales Meetings 2002-2003
E-mail	1/14/2002	Michels	Tripp and Lellouche	Mason, Silk, Raider, Sellinger, and Christie	Miscellaneous Meeting Minute E-mails
Email	1/15/2002	Adam	Lellouche		Microsites
Email	1/15/2002	Adam	Lellouche		Microsites
E-mail	1/15/2002	Peiser	Lellouche		TRS and Entrance Targeting - Volume 1
E-mail	1/15/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Mason, Michels, Cleary, Coughlin, Bruther, Campanelli, Sonsky		Miscellaneous Meeting Minute E-mails
Email	1/16/2002	Fireman	Lellouche		Donations Direct
Email	1/16/2002	Adam	Lellouche		Microsites
Email	1/16/2002	Adam	Lellouche		Microsites
Email	1/16/2002	Raider	Lellouche		Microsites
Email	1/16/2002	Harde	Lellouche, Raider, Adam	Litwin, Fireman	Microsites
Email	1/16/2002	Stasiewicz	Lellouche	Adam	Microsites
Email	1/16/2002	Bruther	Lellouche	Adam and Campanelli	Retail Emails - Volume 6

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	1/16/2002	Coughlin	Reed	Cleary, Hughes, Gillin and McMellin	Retail Emails - Volume 6
Email	1/16/2002	Coughlin	Gillin and Lellouche	Cleary	Retail Emails - Volume 6
Email	1/16/2002	Gillin	Kroc, Sutherland, Webber, Emmel, Eckman	Lellouche	Retail Sales Meetings 2002-2003
Email	1/17/2002	Tripp	Cleary, Coughlin	Lellouche	Donations Direct
Email	1/17/2002	Tripp	Mason, Silk, Michels	Sellinger, Lellouche, Sonsky	Donations Direct
Email	1/17/2002	Tripp	Lellouche		Donations Direct
Email	1/17/2002	Litwin	Raynforth	Lellouche	Microsites
E-mail	1/17/2002	Bruther	Gillin, LeJeunesse, Mason, Michels, Sellinger, Silk, Tripp, Cleary, Coughlin, Sonsky, Raider, and McKenna	Christie and Lellouche	Miscellaneous Meeting Minute E-mails
Email	1/18/2002	Treiber	McKenna	Adam and Lellouche	Retail Emails - Volume 4
Email	1/18/2002	Coughlin	Lellouche, Bruther and Campanelli		Retail Emails - Volume 6
Email	1/18/2002	Fontaine	Christie, Lellouche, Campanelli, Grieco, Bruther	Litwin, McKenna, LeJeunesse, Gillin	Retail Sales Meetings 2002-2003
Email	1/18/2002	Coughlin	Bruther, Christie, Gillin, LeJeunesse, Lellouche, LeWorthy, Litwin, McKenna, Raider and Treiber	Campanelli, Cleary, Fontaine, Garofalo and Grieco	Retail Sales Meetings 2002-2003
Email	1/18/2002	Gillin	Lellouche	McKenna, LeJeunesse, Raider, Kroc, Eckman and Rubber	Retail Sales Meetings 2002-2003
Email	1/18/2002	LeJeunesse	Adam, Cleary, Coughlin, Gillin, Lellouche, Litwin, McKenna, Raider, Treiber and Tripp		Retail Sales Meetings 2002-2003
Email	1/21/2002	LeJeunesse	Lellouche		Retail Emails - Volume 7
Email	1/23/2002	Treiber	McKenna	Adam and Lellouche	Retail Emails - Volume 4
Email	1/23/2002	Raider	Lellouche		Retail Emails - Volume 5
Email	1/23/2002	LeJeunesse	Treiber and Adam	Lellouche and Litwin	Retail Emails - Volume 5
Email	1/23/2002	Hurme	Cleary, Bruther and Ludwig	Sellinger, Coughlin, Lellouche, Gillin and Cappucci	Retail Emails - Volume 6
Email	1/23/2002	Benson	Adam and Lellouche		Retail Emails - Volume 7
Email	1/23/2002	LeJeunesse	Lellouche	Litwin	Retail Sales Meetings 2002-2003
Email	1/23/2002	McKenna	Lellouche	Raider, Litwin, LeJeunesse, Gillin, Fontaine	Retail Sales Meetings 2002-2003
E-mail	1/23/2002	Fontaine	Lellouche and Fireman		Stored Value Programs - Volume 2
E-mail	1/23/2002	Fireman	Lellouche		Stored Value Programs - Volume 2
E-mail	1/23/2002	Fireman	Lellouche		Stored Value Programs - Volume 2



# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	1/23/2002	Fireman	Lellouche		Stored Value Programs - Volume 2
E-mail	1/23/2002	Fontaine	Lellouche		Stored Value Programs - Volume 3
Email	1/24/2002	Borrow	Lellouche, Raider	Campanelli, Racano, Quinn	Retail Emails - Volume 1
Email	1/24/2002	Treiber	Lellouche	Adam, Hughes and Reale	Retail Emails - Volume 3
Email	1/25/2002	Gillin	Adam, Lellouche		Microsites
Email	1/25/2002	Treiber	LeJeunesse	Lellouche and Adam	Retail Emails - Volume 6
Email	1/25/2002	Treiber	Lellouche	Adam, Hughes, Reale and LeJeunesse	Retail Emails - Volume 7
Email	1/25/2002	LeJeunesse	Adam, Cleary, Coughlin, Gillin, LeJeunesse, Lellouche, Litwin, McKenna, Raider, Treiber and Tripp		Retail Sales Meetings 2002-2003
E-mail	1/25/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Mason, Michels, Cleary, Coughlin, Sonsky, Campanelli, and Bruther		Miscellaneous Meeting Minute E-mails
Email	1/26/2002	Litwin	Lellouche	Adam, Lear	EDialog
Email	1/28/2002	Fontaine	Lellouche, Christie, Bruther, Campanelli, Grieco		Retail Sales Meetings 2002-2003
Email	1/28/2002	Fontaine	Lellouche, Christie, Bruther, Campanelli, and Grieco		Retail Sales Meetings 2002-2003
Email	1/28/2002	Gillin	Lellouche, LeJeunesse, McKenna and Raider	Kroc, Eckman, Webber and Sutherland	Retail Sales Meetings 2002-2003
Email	1/29/2002	Fireman	Lellouche		Donations Direct
Email	1/29/2002	Raider	Lellouche		Retail Emails - Volume 1
Email	1/29/2002	Cleary	McKenna	Rainforth, Lellouche, Bruther and Coughlin	Retail Emails - Volume 6
Email	1/29/2002	LeJeunesse	Lellouche	Litwin	Retail Sales Meetings 2002-2003
Email	1/29/2002	Christie	Roberts, Harde, Jenson and Lellouche		Staffing Emails - Volume 1
Email	1/30/2002	Litwin	Lellouche	Taylor	Microsites
Email	1/30/2002	Christie	Harde, Lellouche		Microsites
Email	1/31/2002	Cleary	Raider	Coughlin, Crowther, Lellouche	Retail Emails - Volume 7
Email	1/31/2002	LeJeunesse	Lellouche	Litwin	Retail Sales Meetings 2002-2003
Email	1/31/2002	Michaels	Lellouche		Staffing Emails - Volume 2
Email	2/1/2002	Fontaine	Lellouche, Fireman, Campanelli, Litwin	Christie, Bruther, Grieco	Retail Sales Meetings 2002-2003
Email	2/1/2002	Fontaine	Lellouche, Fireman, Campanelli and Litwin	Christie, Bruther and Grieco	Retail Sales Meetings 2002-2003
Email	2/1/2002	Gillin	Lellouche, LeJeunesse, McKenna and Raider	Eckman, Kroc and Wogan	Retail Sales Meetings 2002-2003

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	2/1/2002	LeJeunesse	Adam, Cleary, Coughlin, Gillin, Lellouche, Litwin, McKenna, Raider, Treiber and Tripp		Retail Sales Meetings 2002-2003
Email	2/1/2002	Christie	Harde and Lellouche		Staffing Emails - Volume 1
E-mail	2/1/2002	LeJeunesse	Lellouche, Raider, Gillin, and McKenna	Litwin	TRS and Entrance Targeting - Volume 2
E-mail	2/1/2002	McKenna	Lellouche		TRS and Entrance Targeting - Volume 2
E-mail	2/1/2002	Jack	Racano		Documents Supplied by Don Jack, January 2006-
E-mail	2/1/2002	Jack	Cappucci		Documents Supplied by Don Jack, January 2006
E-mail	2/1/2002	Racano	Jack	Ludwig	Documents Supplied by Don Jack, January 2006
E-mail	2/1/2002	Jack	Racano		Deb Wolfe Documents V. 1
Email	2/4/2002	Taylor	Raider	Harde, Lellouche	Microsites
Email	2/4/2002	Coughlin	Bruther, Christie, Gillin, LeJeunesse, Lellouche, Litwin, McKenna, Raider and Treiber	Campanelli, Cleary, Fontaine, Garofalo and Grieco	Retail Sales Meetings 2002-2003
E-mail	2/4/2002	Adam	Bruther	Lellouche	TRS and Entrance Targeting - Volume 2
E-mail	2/4/2002	Racano	Jack		Documents Supplied by Don Jack, January 2006
E-mail	2/4/2002	Adam	Jack	Bruther	Documents Supplied by Don Jack, January 2006
E-mail	2/4/2002	Sellinger	Christie, Lellouche, Tripp, Michels, Silk, Mason, Cleary, Sonsky, Campanelli, and Bruther		Miscellaneous Meeting Minute E-mails
Email	2/6/2002	LaJeunesse	Lellouche		Retail Emails - Volume 5
Email	2/6/2002	Gillin	Raider, LeJeunesse, McKenna, Litwin	Lellouche, Fireman	Retail Sales Meetings 2002-2003
Email	2/6/2002	McKenna	Gillin, Raider, LeJeunesse, Litwin	Lellouche, Fireman	Retail Sales Meetings 2002-2003
E-mail	2/6/2002	Bruther	Adam	Campanelli and Lellouche	TRS and Entrance Targeting - Volume 2
E-mail	2/6/2002	Bruther	Raider and Lellouche		John Linguiti File
Email	2/8/2002	Adam	Bruther, Lellouche	Raider, Benson	Retail Emails - Volume 1
Email	2/8/2002	Raider	Adam, Bruther and Lellouche	Benson	Retail Emails - Volume 6
Email	2/8/2002	Fontaine	Lellouche, Fireman, Campanelli, Grieco, Bruther	Christie, Litwin, LeJeunesse, McKenna, Gillin	Retail Sales Meetings 2002-2003
Email	2/11/2002	Adam	Harde, Lellouche		Microsites
Email	2/11/2002	Adam	Harde	Lellouche	Microsites
Email	2/11/2002	Adam	Raider	Lellouche	Retail Emails - Volume 1
Email	2/11/2002	McKenna	Lellouche	Fontaine, Raider, LeJeunesse, Gillin and Litwin	Retail Sales Meetings 2002-2003

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	2/11/2002	Gillin	Lellouche	Raider, LeJeunesse, McKenna, Kroc, Logan and Siemsen	Retail Sales Meetings 2002-2003
Email	2/11/2002	Coughlin	Bruther, Christie, Gillin, LeJeunesse, Lellouche, Litwin, McKenna, Raider and Treiber	Campanelli, Cleary, Fontaine, Garofalo, Grieco	Retail Sales Meetings 2002-2003
Email	2/11/2002	LeJeunesse	Adam, Cleary, Coughlin, Gillin, Lellouche, Litwin, McKenna, Raider, Treiber and Tripp		Retail Sales Meetings 2002-2003
Email	2/12/2002	Adam	Lellouche		Microsites
Email	2/12/2002	Adam	Lellouche		Microsites
Email	2/12/2002	Bruther	Lellouche	Campanelli	Retail Emails - Volume 1
E-mail	2/13/2002	Fireman	Lellouche		Stored Value Programs - Volume 3
E-mail	2/14/2002	Bruther	Lellouche		TRS and Entrance Targeting - Volume 2
Email	2/18/2002	Harde	Borthwick	Lellouche, Christie	Microsites
Email	2/18/2002	Harde	Lellouche, Adam, Christie		Microsites
Email	2/18/2002	Raider	Lellouche	Adam, Bruther	Retail Emails - Volume 1
Email	2/19/2002	Raider	Adam, Hughes	Lellouche, Bruther	Aspen - Volume 3
Email	2/19/2002	Cleary	Lellouche		Donations Direct
Email	2/19/2002	Adam	Lellouche		Microsites
Email	2/19/2002	Adam	Harde, Lellouche		Microsites
Email	2/19/2002	Fontaine	Lellouche		Retail Emails - Volume 1
Email	2/19/2002	McKenna	Lellouche	Fontaine, Raider, Litwin, Gillin and LeJeunesse	Retail Sales Meetings 2002-2003
Email	2/19/2002	Fontaine	Lellouche, Christie, Litwin, Campanelli, Cleary, Bruther and Grieco		Retail Sales Meetings 2002-2003
Email	2/19/2002	Gillin	Lellouche	Raider, McKenna, Kroc, Eckman, Emmel, Wogan and LeJeunesse	Retail Sales Meetings 2002-2003
E-mail	2/19/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Mason, Michels, Cleary, Coughlin, Sonsky, Bruther, and Campanelli		Miscellaneous Meeting Minute E-mails
Email	2/20/2002	Treiber	Raider	Adam, Lellouche	Retail Emails - Volume 1
Email	2/20/2002	Treiber	Adam and Lellouche		Retail Emails - Volume 5
Email	2/20/2002	Hughes	Treiber, Lellouche	Raider, Adam, Coughlin, Litwin, Bruther	Retail Emails - Volume 7
Email	2/20/2002	Harding	Lellouche		Retail Sales Meetings 2002-2003

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	2/22/2002	Borthwick	Lellouche		Donations Direct
Email	2/22/2002	Campanelli	Lellouche		Donations Direct
Email	2/22/2002	Campanelli	Lellouche		Donations Direct
Email	2/22/2002	Christie	Lellouche	Roberts	Staffing Emails - Volume 2
Email	2/23/2002	Harde	Christie	Benson, Adam, Lellouche	Microsites
Email	2/24/2002	Harde	Lellouche	Christie, Adam, Benson	Microsites
Email	2/25/2002	McKenna	Lellouche		Retail Emails - Volume 4
Email	2/25/2002	Fontaine	Christie, Lellouche, Fireman, Litwin, Bruther, Grieco, Campanelli		Retail Sales Meetings 2002-2003
Email	2/25/2002	LeJeunesse	Adam, Cleary, Coughlin, Gillin, Lellouche, Litwin, McKenna, Raider, Treiber, Tripp		Retail Sales Meetings 2002-2003
Email	2/25/2002	Crowther	Lellouche, Christie, Raider, Bruther, Gillin, LeJeunesse, Litwin, McKenna, Treiber	Campanelli, Cleary, Fontaine, Coughlin, Garofalo	Retail Sales Meetings 2002-2003
Email	2/25/2002	Gillin	Lellouche	Kroc, Wogan, Siemens, Raider, LeJeunesse and McKenna	Retail Sales Meetings 2002-2003
E-mail	2/25/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Mason, Michels, Cleary, Coughlin, Sonsky, Campanelli, and Bruther		Miscellaneous Meeting Minute E-mails
Email	2/26/2002	Tripp	Lellouche		Retail Emails - Volume 1
E-mail	2/26/2002	Ludwig	Raider	Bruther and Jack	Documents Supplied by Don Jack, January 2006-
E-mail	2/26/2002	Ludwig	Raider	Bruther and Jack	Documents Supplied by Don Jack, January 2006-
E-mail	2/26/2002	Ludwig	Raider	Bruther and Jack	Documents Supplied by Don Jack, January 2006
E-mail	2/26/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Mason, Michels, Cleary, Coughlin, Sonsky, Campanelli, and Bruther		Miscellaneous Meeting Minute E-mails
Email	2/27/2002	Tripp	Lellouche		Donations Direct
Email	2/27/2002	Treiber	McKenna	Adam and Lellouche	Retail Emails - Volume 5
Email	2/27/2002	Tripp	LeJeunesse	Lellouche	Retail Emails - Volume 7
E-mail	2/27/2002	Gillin	Raider, Rainforth, Litwin, and Fireman	Lellouche	Stored Value Programs - Volume 2
Email	2/28/2002	LeJeunesse	Lellouche		Retail Emails - Volume 3
Email	2/28/2002	Tripp	Roberts	Lellouche	Staffing Emails - Volume 2
E-mail	2/28/2002	Ludwig	Raider		Documents Supplied by Don Jack, January 2006-

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	2/28/2002	Raider	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	2/28/2002	Raider	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	2/28/2002	Ludwig	Raider		Documents Supplied by Don Jack, January 2006-
E-mail	2/28/2002	Raider	Ludwig		Deb Wolfe Documents V. 1
E-mail	2/28/2002	Raider	Ludwig		Deb Wolfe Documents V. 1
Email	3/1/2002	Litwin	Lellouche		Microsites
Email	3/1/2002	Fontaine	Christie, Lellouche, Fireman, Campanelli	Grieco, Bruther, Litwin	Retail Sales Meetings 2002-2003
Email	3/1/2002	Gilllin	Lellouche	LeJeunesse, McKenna, Raider, Kroc and Siemsen	Retail Sales Meetings 2002-2003
E-mail	3/1/2002	Ludwig	Raider	Racano and Jack	Documents Supplied by Don Jack, January 2006-
E-mail	3/1/2002	Racano	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	3/1/2002	Racano	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	3/1/2002	Racano	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	3/1/2002	Raider	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	3/1/2002	Racano	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	3/1/2002	Racano	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	3/1/2002	Mason	Tripp and Lellouche		Miscellaneous Meeting Minute E-mails
E-mail	3/1/2002	Racano	Ludwig		Deb Wolfe Documents V. 1
E-mail	3/1/2002	Racano	Ludwig		Deb Wolfe Documents V. 1
Email	3/4/2002	Litwin	Lellouche, Tripp		Donations Direct
Email	3/4/2002	Harde	Lellouche		Microsites
Email	3/4/2002	Treiber	McKenna and Lellouche	Adam	Retail Emails - Volume 4
Email	3/4/2002	Tripp	Lellouche		Retail Sales Meetings 2002-2003
Email	3/4/2002	LeJeunesse	Adam, Cleary, Coughlin, Gillin, Lellouche, Litwin, McKenna, Raider, Treiber, Tripp		Retail Sales Meetings 2002-2003
Email	3/4/2002	LeJeunesse	Adam, Cleary, Coughlin, Gillin, LeJeunesse, Lellouche, Litwin, McKenna, Raider, Treiber and Tripp		Retail Sales Meetings 2002-2003
Email	3/5/2002	Harde	McKenna	Lellouche, Christie	Microsites
Email	3/5/2002	Raider	Lellouche		Retail Emails - Volume 4

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	3/5/2002	Treiber	Lellouche and McKenna	Adam	Retail Emails - Volume 4
Email	3/6/2002	Adam	Lellouche		Microsites
Email	3/6/2002	Treiber	Lellouche	McKenna	Retail Emails - Volume 3
Email	3/7/2002	LeJeunesse	Lellouche		Retail Emails - Volume 7
Email	3/7/2002	Crowther	Christie, Lellouche, Raider, McKenna, Gillin, LeJeunesse, Cleary, Coughlin, Litwin, Treiber, Bruther	Campanelli, Garofalo	Retail Sales Meetings 2002-2003
E-mail	3/7/2002	Ludwig	Racano		Documents Supplied by Don Jack, January 2006-
E-mail	3/7/2002	Ludwig	Racano		Documents Supplied by Don Jack, January 2006-
E-mail	3/7/2002	Ludwig	Racano		Deb Wolfe Documents V. 1
Email	3/8/2002	Tripp	Lellouche, Raider		Retail Emails - Volume 1
Email	3/8/2002	Coughlin	McKenna	Lellouche, Cleary and Bruther	Retail Emails - Volume 4
E-mail	3/8/2002	Sellinger	Christie, Lellouche, Tripp, Cleary, Michels, Silk, Mason, Sonsky, Coughlin, Bruther, and Campanelli		Miscellaneous Meeting Minute E-mails
Email	3/11/2002	Tripp	Mason, Silk, Michels	Sellinger, Lellouche, Cleary, Cohen	Donations Direct
Email	3/11/2002	Tripp	Mason, Silk, Michels	Lellouche, Sellinger	Donations Direct
Email	3/11/2002	Gillin	Lellouche	LeJeunesse, McKenna, Raider	Microsites
Email	3/11/2002	Fontaine	Lellouche, Bruther, Campanelli, Christie	Fireman	Retail Sales Meetings 2002-2003
Email	3/11/2002	Gillin	Lellouche	Kroc, LeJeunesse and McKenna	Retail Sales Meetings 2002-2003
E-mail	3/11/2002	Ludwig	Blanco	Ruchalski and Racano	Documents Supplied by Don Jack, January 2006-
Email	3/14/2002	Tripp	Lellouche		Retail Emails - Volume 6
Email	3/15/2002	Fontaine	Christie, Lellouche, Fireman, Campanelli, Grieco, Bruther, Litwin		Retail Sales Meetings 2002-2003
E-mail	3/17/2002	Ludwig	Raider and Fireman	Coughlin, Racano, Jack, and Bruther	Documents Supplied by Don Jack, January 2006-
E-mail	3/17/2002	Ludwig	Raider and Fireman	Coughlin, Racano, Jack, and Bruther	Documents Supplied by Don Jack, January 2006-
E-mail	3/17/2002	Ludwig	Raider and Fireman	Coughlin, Racano, Jack, and Bruther	Documents Supplied by Don Jack, January 2006-
E-mail	3/17/2002	Ludwig	Raider, Fireman	Coughlin, Racano, Jack, Bruther	Deb Wolfe Documents V. 1
E-mail	3/17/2002	Ludwig	Raider, Fireman	Coughlin, Racano, Jack, Bruther	Deb Wolfe Documents V. 1

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	3/18/2002	LeJeunesse	Adam, Cleary, Coughlin, Gillin, Lellouche, Litwin, McKenna, Raider, Treiber, Tripp		Retail Sales Meetings 2002-2003
Email	3/18/2002	Coughlin	Bruther, Christie, Gillin, LeJeunesse, Lellouche, Litwin, McKenna, Raider, Treiber	Campanelli, Cleary, Fontaine, Garofalo, Grieco	Retail Sales Meetings 2002-2003
Email	3/18/2002	Gillin	Lellouche	McKenna, LeJeunesse, Kroc and Siemsen	Retail Sales Meetings 2002-2003
E-mail	3/18/2002	Sellinger	Christie, Lellouche, Tripp, Cleary, Michels, Silk, Mason, Sonsky, Coughlin, Bruther, and Campanelli		Miscellaneous Meeting Minute E-mails
Email	3/19/2002	Sellinger	Lellouche		Retail Emails - Volume 7
Email	3/19/2002	Treiber	Raider	Adam	Retail Emails - Volume 7
E-mail	3/19/2002	Jack	Coughlin	Ludwig	Documents Supplied by Don Jack, January 2006-
E-mail	3/20/2002	Coughlin	Jack		Documents Supplied by Don Jack, January 2006-
E-mail	3/20/2002	Coughlin	Jack		Documents Supplied by Don Jack, January 2006
E-mail	3/20/2002	Coughlin	Jack		Deb Wolfe Documents V. 1
E-mail	3/21/2002	Jack	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	3/21/2002	Raider	Ludwig and Fireman	Racano, Bruther, Coughlin, and Jack	Documents Supplied by Don Jack, January 2006-
E-mail	3/21/2002	Jack	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	3/21/2002	Raider	Ludwig, Fireman	Racano, Bruther, Coughlin, Jack	Deb Wolfe Documents V. 1
E-mail	3/21/2002	Jack	Ludwig		Deb Wolfe Documents V. 1
E-mail	3/21/2002	Ludwig	Raider, Fireman	Racano, Bruther, Coughlin, Jack	Deb Wolfe Documents V. 1
Email	3/22/2002	Treiber	McKenna	Adam and Lellouche	Retail Emails - Volume 4
Email	3/22/2002	Fontaine	Christie, Lellouche, Fireman, Campanelli, Bruther, Grieco, Litwin		Retail Sales Meetings 2002-2003
Email	3/22/2002	Coughlin	Bruther, Christie, Gillin, LeJeunesse, Lellouche, Litwin, McKenna, Raider, Treiber	Campanelli, Cleary, Fontaine, Garofalo, Grieco	Retail Sales Meetings 2002-2003
E-mail	3/22/2002	Jack	Ludwig	Bruther	Documents Supplied by Don Jack, January 2006
Email	3/24/2002	Gillin	Lellouche		Retail Emails - Volume 7
Email	3/24/2002	Gillin	Lellouche		Retail Sales Meetings 2002-2003
Email	3/25/2002	LeJeunesse	Lellouche and Garofalo		Retail Emails - Volume 5
E-mail	3/25/2002	Ludwig	Jack		Documents Supplied by Don Jack, January 2006

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	3/25/2002	Selling	Christie, Lellouche, Tripp, Silk, Michels, Mason, Campanelli, Bruther, Cleary, Coughlin, Sonsky, and Casey		Miscellaneous Meeting Minute E-mails
Email	3/26/2002	Treiber	Christie, Lellouche, Raider, McKenna, Gillin, LeJeunesse, Coughlin, Litwin, Bruther	Campanelli, Cleary, Fontaine, Garofalo, Grieco, Adam	Aspen - Volume 1
Email	3/26/2002	Treiber	McKenna	Adam, Lellouche and Christie	Retail Emails - Volume 4
Email	3/27/2002	Treiber	Cleary	Lellouche and McKenna	Retail Emails - Volume 3
Email	3/27/2002	Coughlin	Lellouche, Christie, Raider, McKenna, Litwin, Adam, Bruther, Gillin, LeJeunesse	Cleary, Campanelli, Coughlin	Retail Sales Meetings 2002-2003
E-mail	3/27/2002	Fireman	Lellouche		Stored Value Programs - Volume 2
E-mail	3/27/2002	Fireman	Lellouche		Stored Value Programs - Volume 3
Email	3/28/2002	Coughlin	McKenna	Lellouche, Cleary, Crowther, Rainforth	Retail Emails - Volume 1
Email	3/28/2002	Rainforth	Crowther, McKenna	Coughlin, Lellouche, Messenger	Retail Emails - Volume 1
Email	3/28/2002	Coughlin	Rainforth	Messenger, Lellouche, McKenna, Cleary	Retail Emails - Volume 1
Email	3/28/2002	Messinger	Coughlin	Rainforth, McKenna and Lellouche	Retail Emails - Volume 6
Email	3/28/2002	Gillin	Kroc, Lellouche		Retail Emails - Volume 8
E-mail	3/28/2002	Raider	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	3/28/2002	Raider	Ludwig	Fireman, Bruther, Coughlin, and Jack	Documents Supplied by Don Jack, January 2006-
E-mail	3/28/2002	Raider	Ludwig		Deb Wolfe Documents V. 1
E-mail	3/28/2002	Raider	Ludwig		Deb Wolfe Documents V. 1
Email	3/29/2002	Fontaine	Christie, Lellouche, Fireman, Campanelli, Bruther, Grieco, Litwin		Retail Sales Meetings 2002-2003
Email	3/29/2002	LeJeunesse	Casey	Lellouche	Retail Sales Meetings 2002-2003
Email	3/29/2002	Tripp	Lellouche		Staffing Emails - Volume 2
E-mail	3/29/2002	Fireman	Lellouche		Stored Value Programs - Volume 3
E-mail	3/29/2002	Selling	Christie, Lellouche, Tripp, Silk, Mason, Michels, Bruther, Campanelli, Cleary, Casey, and Sonsky		Miscellaneous Meeting Minute E-mails
Email	4/1/2002	Raider	Lellouche	Fireman	Retail Emails - Volume 5
Email	4/1/2002	Gillin	Lellouche	McKenna, LeJeunesse and Raider	Retail Sales Meetings 2002-2003
E-mail	4/1/2002	Raider	Ludwig	Benson, Fireman, Coughlin, and Bruther	Documents Supplied by Don Jack, January 2006-



# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	4/1/2002	Raider	Ludwig	Benson, Fireman, Coughlin, Bruther	Deb Wolfe Documents V. 1
E-mail	4/2/2002	Raider	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	4/2/2002	Raider	Ludwig		Deb Wolfe Documents V. 1
Email	4/3/2002	Cleary	Lellouche, Bruther		Retail Emails - Volume 7
Email	4/4/2002	Harde	Lellouche		Microsites
Email	4/5/2002	Fontaine	Christie, Lellouche, Fireman, Campanelli	Litwin, Bruther, Grieco, Casey	Retail Sales Meetings 2002-2003
Email	4/8/2002	Hughes	Raider, Adam, Christie, Bruther, Sellinger, Lellouche, McKenna, Tripp, Gillin, Treiber, Cleary, LeJeunesse, Coughlin, Fireman, Silk		Aspen - Volume 4
Email	4/8/2002	Messinger	Lellouche	McKenna	Retail Emails - Volume 4
Email	4/8/2002	Treiber	McKenna	Lellouche	Retail Emails - Volume 8
Email	4/8/2002	Coughlin	Bruther, Christie, Gillin, LeJeunesse, Lellouche, Litwin, McKenna, Raider, Treiber	Campanelli, Casey, Cleary, Fontaine, Garofalo, Grieco	Retail Sales Meetings 2002-2003
E-mail	4/8/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Michels, Mason, Cleary, Coughlin, Sonsky, Casey, Bruther, and Campanelli		Miscellaneous Meeting Minute E-mails
Email	4/9/2002	Fontaine	Lellouche		iBelong
E-mail	4/9/2002	Lellouche	Raider and Quinn		Documents Supplied by Don Jack, January 2006-
E-mail	4/9/2002	Lellouche	Raider and Quinn		John Linguiti File
Email	4/10/2002	Tripp	Lellouche	Bruther	Donations Direct
Email	4/10/2002	Adam	Harde, Lellouche, Gillin, Raider, Taylor		Retail Emails - Volume 8
Email	4/10/2002	Tripp	Roberts	Lellouche	Staffing Emails - Volume 2
Email	4/11/2002	Tripp	Roberts	Lellouche	Staffing Emails - Volume 2
Email	4/12/2002	Fontaine	Christie, Lellouche, Fireman, Campanelli	Casey, Grieco, Bruther, Litwin	Ann Raider Highlights 2002-2003
E-mail	4/12/2002	Racano	Ludwig	Jack	Documents Supplied by Don Jack, January 2006-
Email	4/15/2002	Tripp	Lellouche	Bruther	Donations Direct
E-mail	4/15/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Mason, Michels, Cleary, Coughlin, Sonsky, Bruther, Campanelli, and Casey		Miscellaneous Meeting Minute E-mails
Email	4/16/2002	Gillin	Lellouche, Adam, Stasiewicz, Taylor, Rainforth, Janik, Gillin, Raider, Litwin	Harde	Retail Emails - Volume 8

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	4/16/2002	Racano	Ludwig and Jack		Documents Supplied by Don Jack, January 2006-
E-mail	4/16/2002	Racano	Jack and Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	4/16/2002	Racano	Jack and Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	4/16/2002	Racano	Ludwig and Jack		Documents Supplied by Don Jack, January 2006-
Email	4/17/2002	Cleary	Lellouche, Gillin		Retail Emails - Volume 8
Email	4/17/2002	Litwin	Lellouche, Gillin, Rainforth, Harde, Janik, Taylor, Raider		Retail Emails - Volume 8
E-mail	4/17/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Michels, Mason, Cleary, Coughlin, Sonsky, Casey, Bruther, and Campanelli		Miscellaneous Meeting Minute E-mails
Email	4/18/2002	Janik	Gillin	Rainforth, Harde, Lellouche, Stasiewicz	Retail Emails - Volume 8
Email	4/19/2002	Adam	Campanelli, Bruther, Christie, Benson, Harde, Lellouche		Aspen - Volume 3
Email	4/19/2002	Nesbitt	Lellouche		Retail Emails - Volume 3
Email	4/19/2002	Gillin	Lellouche, Adam, Litwin, Raider, Harde	Janik, Rainforth	Retail Emails - Volume 8
Email	4/21/2002	Coughlin	Raider, Lellouche, Gillin, McKenna, Christie, Bruther, Litwin, Treiber, LeJeunesse	Cleary, Casey, Fontaine, Campanelli, Grieco, Coughlin	Retail Sales Meetings 2002-2003
Email	4/22/2002	Fontaine	Christie, Lellouche, Litwin	Casey	Ann Raider Highlights 2002-2003
Email	4/22/2002	Fontaine	Christie, Lellouche, Campanelli, Fireman	Bruther, Grieco, Casey, Litwin	Ann Raider Highlights 2002-2003
Email	4/22/2002	Rainforth	Lellouche		Retail Emails - Volume 1
Email	4/22/2002	Cleary	Lellouche		Retail Emails - Volume 3
Email	4/22/2002	Nesbitt	Lellouche		Retail Emails - Volume 4
Email	4/22/2002	Nesbitt	Lellouche		Retail Emails - Volume 4
Email	4/24/2002	McKenna	Treiber	Adam, Bisram, Reale, Hughes, Lellouche, Cleary, Coughlin, Harde and Litwin	Retail Emails - Volume 6
Email	4/24/2002	McKenna	Treiber	Adam, Bisram, Reale, Hughes, Lellouche, Cleary, Coughlin, Harde and Litwin	Retail Emails - Volume 6
Email	4/24/2002	Treiber	McKenna	Adam, Bisram, Reale, Hughes, Lellouche, Cleary, Coughlin, Harde and Litwin	Retail Emails - Volume 6
Email	4/24/2002	Treiber	Raider	Adam, Lellouche	Retail Emails - Volume 7
Email	4/26/2002	Fontaine	Christie, Lellouche, Fireman, Campanelli, Grieco	Bruther, Litwin, Casey	Ann Raider Highlights 2002-2003

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	4/26/2002	Raider	Lellouche		Retail Emails - Volume 3
Email	4/26/2002	Messinger	Treiber and Lellouche	Rainforth and Reale	Retail Emails - Volume 6
Email	4/28/2002	Coughlin	Christie, Lellouche, Raider, Bruther, McKenna, Litwin, LeJeunesse, Gillin, Treiber	Fontaine, Campanelli, Casey, Cleary, Coughlin	Retail Sales Meetings 2002-2003
Email	4/29/2002	Wogan	Lellouche		Retail Emails - Volume 3
E-mail	4/29/2002	Racano	Borrow	Ludwig, Newman, and Jack	Documents Supplied by Don Jack, January 2006-
E-mail	4/29/2002	Racano	Borrow	Ludwig, Newman, and Jack	Documents Supplied by Don Jack, January 2006-
E-mail	4/29/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Michels, Mason, Cleary, Coughlin, Sonsky, Casey, Bruther, and Campanelli		Miscellaneous Meeting Minute E-mails
Email	4/30/2002	LeJeunesse	Bruther, Lellouche and Adam	Treiber	Retail Emails - Volume 7
Email	5/1/2002	LeJeunesse	Lellouche and Christie		Retail Emails - Volume 5
Email	5/1/2002	LeJeunesse	Lellouche, Bruther and Adam	Treiber	Retail Emails - Volume 7
Email	5/1/2002	Treiber	Lellouche		Retail Emails - Volume 7
Email	5/1/2002	Tripp	Mason, Silk, Michels	Lellouche, Sellinger, Sonsky, LeJeunesse	Retail Emails - Volume 8
Email	5/2/2002	LeJeunesse	Lellouche, Treiber and Bruther		Retail Emails - Volume 4
Email	5/2/2002	Roberts	Tripp and Lellouche		Staffing Emails - Volume 2
Email	5/2/2002	Roberts	Tripp and Lellouche		Staffing Emails - Volume 2
Email	5/3/2002	Fontaine	Christie, Lellouche, Fireman, Campanelli, Grieco	Bruther, Litwin, Casey	Ann Raider Highlights 2002-2003
Email	5/6/2002	Litwin	Raider, LeJeunesse, McKenna, Gillin	Lellouche, Treiber, Hughes, Adam, Tripp	Aspen - Volume 1
Email	5/6/2002	Gillin	Lellouche		Retail Emails - Volume 1
E-mail	5/6/2002	Racano	Ludwig	Jack	Documents Supplied by Don Jack, January 2006-
E-mail	5/6/2002	Racano	Ludwig	Jack	Documents Supplied by Don Jack, January 2006-
E-mail	5/6/2002	Racano	Ludwig	Jack	Documents Supplied by Don Jack, January 2006-
Email	5/7/2002	Moreno	Lellouche, Adam and LeJeunesse	Siemsen	Retail Emails - Volume 5
E-mail	5/7/2002	Fireman	Lellouche		Stored Value Programs - Volume 2
E-mail	5/7/2002	Fireman	Lellouche		Stored Value Programs - Volume 2
Email	5/9/2002	McKenna	Lellouche		Promotions
Email	5/9/2002	Raider	Litwin, Gillin, McKenna, LeJeunesse	Lellouche	Promotions

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	5/9/2002	Adam	Raider	Bruther, Lellouche	Retail Emails - Volume 1
E-mail	5/9/2002	Racano	Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	5/9/2002	Racano	Ludwig	Jack	Documents Supplied by Don Jack, January 2006-
E-mail	5/9/2002	Ludwig	Jack		Documents Supplied by Don Jack, January 2006-
E-mail	5/9/2002	Racano	Ludwig	Jack	Documents Supplied by Don Jack, January 2006-
Email	5/10/2002	Fontaine	Christie, Lellouche, Fireman, Campanelli, Grieco, Bruther	Litwin, Casey	Ann Raider Highlights 2002-2003
Email	5/10/2002	Moreno	Lellouche	Siemsen, Adam and Christie	Retail Emails - Volume 3
E-mail	5/10/2002	Fireman	Lellouche		Stored Value Programs - Volume 2
Email	5/13/2002	Coughlin	Lellouche, Raider, Christie, Gillin, McKenna, Litwin, Bruther and LeJeunesse	Casey and Fontaine	Retail Sales Meetings 2002-2003
Email	5/14/2002	McKenna	Lellouche		Retail Emails - Volume 3
Email	5/14/2002	Casey	Lellouche		Retail Emails - Volume 7
Email	5/14/2002	Tripp	Roberts and Lellouche		Staffing Emails - Volume 2
E-mail	5/14/2002	Fireman	Lellouche		Stored Value Programs - Volume 3
Email	5/15/2002	Cleary	Lellouche, McKenna, Quinn, Racano and Bruther		Retail Emails - Volume 4
Email	5/15/2002	Rainforth	Lellouche and McKenna	Janik, Stasiewicz, Hardy, O'Neil and Keltz	Retail Emails - Volume 4
Email	5/15/2002	Tripp	Roberts and Lellouche		Staffing Emails - Volume 2
E-mail	5/15/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Michels, Mason, Cleary, Coughlin, Sonsky, Casey, Bruther, and Campanelli		Miscellaneous Meeting Minute E-mails
Email	5/16/2002	Roberts	Lellouche	Christie	Staffing Emails - Volume 2
Email	5/17/2002	Bruther	Lellouche		Staffing Emails - Volume 2
E-mail	5/17/2002	Adam	Lellouche, Campanelli, Bruther, Christie, and McKenna		TRS and Entrance Targeting - Volume 1
E-mail	5/17/2002	Racano	Raider	Ludwig, Fireman, and Jack	Documents Supplied by Don Jack, January 2006-
Email	5/20/2002	Coughlin	Lellouche, Raider, McKenna, Litwin, Bruther, Treiber, Christie	Campanelli, Fontaine, Casey	Retail Sales Meetings 2002-2003
Email	5/21/2002	Lellouche	Teeter	Keltz, Lellouche	Microsites
E-mail	5/21/2002	Fireman	Lellouche		Stored Value Programs - Volume 1

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	5/22/2002	Cleary	Lellouche, Raider, Crowther, Borrow, Fitzpatrick, Bruther and Coughlin		Retail Emails - Volume 6
Email	5/23/2002	Roberts	Lellouche		Staffing Emails - Volume 1
Email	5/24/2002	Fontaine	Christie, Lellouche, Fireman, Campanelli, Bruther, Grieco	Litwin, Casey	Ann Raider Highlights 2002-2003
Email	5/28/2002	Raider	Lellouche		Promotions
Email	5/28/2002	Raider	Lellouche		Retail Emails - Volume 1
Email	5/28/2002	Skarnulis	Lellouche		Retail Emails - Volume 3
Email	5/28/2002	Fireman	Lellouche		Retail Emails - Volume 3
Email	5/28/2002	Raider	Kroc	Lellouche	Retail Emails - Volume 8
E-mail	5/28/2002	Rainforth	Lellouche		TRS and Entrance Targeting - Volume 2
Email	5/29/2002	Skarnulis	Lellouche	Wogan	Retail Emails - Volume 7
E-mail	5/29/2002	Racano	Jack and Ludwig		Documents Supplied by Don Jack, January 2006-
Email	5/30/2002	Skarnulis	Lellouche	Wogan	Retail Emails - Volume 7
Email	5/30/2002	Gogan	Lellouche		Staffing Emails - Volume 2
E-mail	5/30/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Mason, Michels, Cleary, Coughlin, Sonsky, Bruther, Campanelli, and Casey		Miscellaneous Meeting Minute E-mails
Email	5/31/2002	Fontaine	Christie, Lellouche, Fireman, Campanelli, Grieco	Casey, McKenna	Ann Raider Highlights 2002-2003
Email	5/31/2002	D'Onofrio	Lellouche		Retail Emails - Volume 1
Email	5/31/2002	D'Onofrio	Lellouche		Retail Emails - Volume 1
Email	6/1/2002	Kroc	Garofalo	Lellouche, Sutherland, Raider	Retail Emails - Volume 8
Email	6/3/2002	Sellinger	Lellouche		Retail Emails - Volume 6
E-mail	6/3/2002	Fireman	Lellouche		Stored Value Programs - Volume 2
E-mail	6/3/2002	Jack	Bruther		Documents Supplied by Don Jack, January 2006-
Email	6/4/2002	Moreno	Lellouche	Adam, Christie and Siemsen	Retail Emails - Volume 3
Email	6/4/2002	Wogan	Lellouche	Skarnulis	Retail Emails - Volume 7
Email	6/4/2002	Raider	Lellouche		Retail Emails - Volume 8
E-mail	6/4/2002	Fireman	Lellouche		Stored Value Programs - Volume 2

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	6/5/2002	Fireman	Lellouche		Stored Value Programs - Volume 2
E-mail	6/5/2002	Jack	Racano and Ludwig		Documents Supplied by Don Jack, January 2006-
E-mail	6/5/2002	Jack	Martins		Documents Supplied by Don Jack, January 2006-
E-mail	6/5/2002	Jack	Martins		Documents Supplied by Don Jack, January 2006-
Email	6/6/2002	Treiber	McKenna	Adam and Lellouche	Retail Emails - Volume 5
E-mail	6/6/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Michels, Mason, Cleary, Coughlin, Sonsky, Casey, Bruther, and Campanelli		Miscellaneous Meeting Minute E-mails
Email	6/7/2002	Messenger	Lellouche		Aspen - Volume 1
Email	6/7/2002	Raider	Fireman, Lellouche, Christie	Kroc, Sutherland, Garofalo	Retail Emails - Volume 8
E-mail	6/7/2002	Jack	Racano		Documents Supplied by Don Jack, January 2006-
Email	6/11/2002	Cleary	Lellouche and Roberts		Staffing Emails - Volume 2
E-mail	6/12/2002	Fireman	Lellouche		Stored Value Programs - Volume 1
Email	6/13/2002	Adam	Lellouche		Retail Emails - Volume 5
E-mail	6/14/2002	Adam	Lellouche and Litwin	Benson	TRS and Entrance Targeting - Volume 1
Email	6/18/2002	Fireman	Lellouche		Retail Emails - Volume 3
Email	6/18/2002	Fireman	Lellouche		Retail Emails - Volume 3
Email	6/18/2002	Roberts	Lellouche		Staffing Emails - Volume 2
Email	6/19/2002	Coughlin	Lellouche		Retail Emails - Volume 7
E-mail	6/19/2002	Litwin	Lellouche		TRS and Entrance Targeting - Volume 2
E-mail	6/19/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Mason, Michels, Cleary, Coughlin, Sonsky, Bruther, Campanelli, Casey		Miscellaneous Meeting Minute E-mails
Email	6/20/2002	Keltz	Lellouche		Microsites
Email	6/20/2002	Roberts	Nave, Dietrich, Mason, Litwin, Melvin, Lellouche and Tripp		Staffing Emails - Volume 2
E-mail	6/20/2002	Fireman	Lellouche		Stored Value Programs - Volume 1
E-mail	6/20/2002	Fireman	Lellouche and Raider		Stored Value Programs - Volume 2
Email	6/24/2002	Crowther	Lellouche, Raider, McKenna, Litwin, Treiber, Coughlin	Garofalo, Casey, Campanelli, Cleary	Retail Sales Meetings 2002-2003
Email	6/25/2002	Harde	Raider	Lellouche	Microsites

**NAM / Fireman and Raider: Internal E-mails Exhibit**

Doc. Type	Date	From	To	CC	
E-mail	6/25/2002	Christie	Lellouche		TRS and Entrance Targeting - Volume 1
Email	6/28/2002	McKenna	Cleary	Bruther and Lellouche	Retail Emails - Volume 4
Email	6/28/2002	Cleary	Lellouche		Staffing Emails - Volume 2
E-mail	7/1/2002	Fireman	Lellouche		Stored Value Programs - Volume 1
Email	7/2/2002	Hughes	Lellouche	Adam and Treiber	Retail Emails - Volume 4
Email	7/2/2002	Fireman	Lellouche and Raider		Retail Emails - Volume 5
Email	7/2/2002	Roberts	Christie, Harde, Lellouche and Jenson	Casey	Staffing Emails - Volume 1
Email	7/2/2002	Roberts	Tripp	Lellouche	Staffing Emails - Volume 2
Email	7/2/2002	Roberts	Tripp	Lellouche	Staffing Emails - Volume 2
Email	7/2/2002	Roberts	Tripp	Lellouche	Staffing Emails - Volume 2
E-mail	7/2/2002	Roberts	H.R. Admin – Full time		Ann Raider Documents
Email	7/3/2002	Harde	Lellouche		Microsites
Email	7/3/2002	Fireman	Lellouche, Raider, Adam		Retail Emails - Volume 2
Email	7/3/2002	Taylor	Lellouche	Christie and Harde	Retail Emails - Volume 6
Email	7/8/2002	Fontaine	Garofalo, Lellouche, Fireman	Gogan	Ann Raider Highlights 2002-2003
Email	7/8/2002	Fireman	Lellouche		Retail Emails - Volume 2
Email	7/8/2002	Constantine	Lippner	Lellouche	Retail Emails - Volume 3
Email	7/8/2002	Fireman	Lippner and Lellouche		Retail Emails - Volume 5
Email	7/8/2002	Fireman	Lellouche		Retail Emails - Volume 7
E-mail	7/8/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Mason, Michels, Cleary, Coughlin, Casey, Campanelli, and Bruther		Miscellaneous Meeting Minute E-mails
Email	7/9/2002	Tripp	Lellouche		Retail Emails - Volume 3
Email	7/9/2002	Fireman	Crowther	Lellouche and Raider	Retail Emails - Volume 5
Email	7/9/2002	Fireman	Lippner	Lellouche	Retail Emails - Volume 5
Email	7/9/2002	Lippner	Lellouche and Fireman		Retail Emails - Volume 5
Email	7/9/2002	Treiber	McKenna	Lellouche, Adam and Cleary	Retail Emails - Volume 6
Email	7/9/2002	Adam	Lellouche		Retail Emails - Volume 7
E-mail	7/9/2002	Fireman	Lippner	Lellouche	Stored Value Programs - Volume 1

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	7/9/2002	Fireman	Racano	Lellouche and Bruther	Stored Value Programs - Volume 3
Email	7/10/2002	Fireman	Lellouche		Retail Emails - Volume 2
Email	7/10/2002	Adam	Fireman and Raider	Bruther and Lellouche	Retail Emails - Volume 5
Email	7/10/2002	Bruther	Lellouche and Adam	Campanelli	Retail Emails - Volume 5
Email	7/10/2002	Fireman	Lippner and Lellouche		Retail Emails - Volume 7
Email	7/10/2002	Fireman	Lippner, Lellouche		Retail Emails - Volume 7
Email	7/10/2002	Roberts	Meyer, Stewarts, Christie and Garofalo	Lellouche, Tripp, Annis-Lopez, Casey and Gogan	Staffing Emails - Volume 1
Email	7/10/2002	Roberts	Meyer, Christie and Garofalo	Lellouche, Tripp and Annis-Lopez, Casey and Gogan	Staffing Emails - Volume 2
E-mail	7/10/2002	Racano	Campanelli, Bruther, and Lellouche	Linguiti	Stored Value Programs - Volume 3
Email	7/11/2002	Fireman	Lellouche		Retail Emails - Volume 2
Email	7/11/2002	Raider	Lellouche		Retail Emails - Volume 3
Email	7/11/2002	Fireman	Lellouche, Fontaine, Crowther and Raider		Retail Emails - Volume 5
Email	7/11/2002	Bruther	Raider	Lellouche, Campanelli and Adam	Retail Emails - Volume 5
Email	7/12/2002	Keltz	Lellouche, Moreno	Siemsen, Litwin	Microsites
Email	7/13/2002	Rainforth	McKenna, Lellouche, Coughlin		Retail Emails - Volume 2
Email	7/15/2002	Raider	Lellouche		Promotions
Email	7/15/2002	Raider	Lellouche		Promotions
Email	7/15/2002	Raider	Lellouche		Retail Emails - Volume 3
Email	7/15/2002	Fireman	Lellouche		Retail Emails - Volume 5
Email	7/15/2002	Borrow	Lellouche		Retail Emails - Volume 6
E-mail	7/15/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Mason, Michels, Casey, Campanelli, Bruther, Cleary, Coughlin, and Ekendahl		Miscellaneous Meeting Minute E-mails
Email	7/16/2002	Fireman	Lellouche		Retail Emails - Volume 3
Email	7/16/2002	Hardy	Lellouche and Adam		Retail Emails - Volume 4
Email	7/16/2002	Fireman	Lellouche		Retail Emails - Volume 7
Email	7/17/2002	Coughlin	Norin	Raider, Lellouche, Cleary, Hughes, Adam, Treiber, Taylor and Keltz	Retail Emails - Volume 4
Email	7/17/2002	Fireman	Lellouche		Retail Emails - Volume 5



**NAM / Fireman and Raider: Internal E-mails Exhibit**

Doc. Type	Date	From	To	CC	
Email	7/17/2002	Adam	Lellouche	McKenna, Treiber	Retail Emails - Volume 7
E-mail	7/17/2002	Racano	Wolfe		Deb Wolfe Documents V. 1
E-mail	7/17/2002	Racano	Wolfe		Deb Wolfe Documents V. 1
E-mail	7/17/2002	Ludwig	Wolfe	Racano, Jack	Deb Wolfe Documents V. 1
E-mail	7/17/2002	Ludwig	Wolfe	Racano, Jack	Deb Wolfe Documents V. 1
Email	7/18/2002	Fontaine	Lellouche		Aspen - Volume 4
Email	7/18/2002	McKenna	Coughlin, Treiber and Cleary	Adam, Lellouche and Wogan	Retail Emails - Volume 6
Email	7/18/2002	Bruther	McKenna	Cleary, Lellouche and Wogan	Retail Emails - Volume 6
Email	7/18/2002	Treiber	Lellouche	Adam and McKenna	Retail Emails - Volume 6
Email	7/19/2002	Adam	Lellouche		Retail Emails - Volume 3
Email	7/19/2002	Coughlin	McKenna, Lellouche and Treiber	Cleary	Retail Emails - Volume 5
Email	7/19/2002	Cleary	McKenna	Lellouche and Wogan	Retail Emails - Volume 6
Email	7/19/2002	McKenna	Lellouche and Adam		Retail Emails - Volume 6
Email	7/20/2002	Treiber	Lellouche	Adam	Retail Emails - Volume 1
Email	7/20/2002	Treiber	Lellouche	Adam	Retail Emails - Volume 2
Email	7/22/2002	Fireman	Lellouche		Retail Emails - Volume 3
Email	7/22/2002	Fireman	Lellouche		Retail Emails - Volume 3
Email	7/22/2002	Fireman	Lellouche		Retail Emails - Volume 3
Email	7/22/2002	Cleary	Noran	McKenna, Coughlin and Lellouche	Retail Emails - Volume 4
Email	7/22/2002	Coughlin	Lellouche, McKenna and Treiber	Cleary and Hughes	Retail Emails - Volume 7
Email	7/24/2002	Cleary	Lellouche	Adam	Retail Emails - Volume 2
Email	7/24/2002	Adam	Lellouche		Retail Emails - Volume 4
Email	7/24/2002	Litwin	Lellouche		Retail Emails - Volume 7
Email	7/25/2002	Fireman	Lellouche		Retail Emails - Volume 1
Email	7/25/2002	Fireman	Lellouche		Retail Emails - Volume 3
Email	7/25/2002	Coughlin	Lellouche, Cleary, Adam, Hughes, Norin, Taylor and Hardy		Retail Emails - Volume 4
Email	7/25/2002	Hughes	Noren	Cleary, Lellouche, Christie, Coughlin	Retail Emails - Volume 7

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	7/26/2002	McKenna	Bruther	Adam, Lellouche	Retail Emails - Volume 1
Email	7/26/2002	Fireman	Lellouche		Retail Emails - Volume 2
Email	7/26/2002	Fireman	Cleary	Lellouche, Coughlin and Adam	Retail Emails - Volume 5
Email	7/26/2002	McKenna	Bruther	Adam and Lellouche	Retail Emails - Volume 6
Email	7/26/2002	Raider	Lellouche	Cleary, Bruther	Retail Emails - Volume 7
Email	7/26/2002	Raider	Kroc, Garofalo, Lellouche	Fireman	Retail Emails - Volume 8
Email	7/29/2002	Bruther	Lellouche, Treiber and Adam		Retail Emails - Volume 7
E-mail	7/29/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Mason, Michels, Cleary, Coughlin, Sonsky, Bruther, Campanelli, Ekendahl, and Casey		Miscellaneous Meeting Minute E-mails
Email	7/31/2002	Norin	Lellouche, Christie, Hardy, Taylor, Coughlin, Cleary, Hughes, Keltz and Treiber		Retail Emails - Volume 4
Email	8/2/2002	Moreno	Lellouche, Cleary	Siemens, Kroc, Adam	Retail Emails - Volume 2
Email	8/5/2002	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
Email	8/5/2002	McKenna	Adam and Treiber	Lellouche and Wogan	Retail Emails - Volume 4
Email	8/5/2002	Treiber	McKenna	Lellouche, Wogan and Adam	Retail Emails - Volume 6
E-mail	8/5/2002	Litwin	Lellouche		Stored Value Programs - Volume 2
Email	8/7/2002	Adam	Lellouche		Retail Emails - Volume 1
Email	8/7/2002	Ekendahl	Lellouche	Tripp, Cleary and Sellinger	Retail Emails - Volume 4
Email	8/9/2002	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
Email	8/9/2002	Litwin	Lellouche		Retail Emails - Volume 1
Email	8/9/2002	Cleary	Roberts	Lellouche and Schulze	Staffing Emails - Volume 2
Email	8/10/2002	Treiber	McKenna and Bisram	Lellouche, Benson and Adam	Retail Emails - Volume 4
Email	8/13/2002	McKenna	Treiber and Bisram	Lellouche, Benson, Adam and Wogan	Retail Emails - Volume 4
Email	8/13/2002	Raider	Cleary	Lellouche, Coughlin, Adam, Treiber, Bruther	Retail Emails - Volume 7
Email	8/13/2002	Cleary	Raider	Lellouche, Coughlin, Adam, Treiber, Bruther	Retail Emails - Volume 7
Email	8/13/2002	Roberts	Meyer, Campanelli and Christie	Tripp and Lellouche	Staffing Emails - Volume 2
Email	8/15/2002	Treiber	Adam, Lellouche		Aspen - Volume 3
Email	8/15/2002	Keltz	Lellouche		Microsites

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	8/15/2002	Keltz	Lellouche		Microsites
Email	8/16/2002	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
Email	8/19/2002	McKenna	Lellouche		Retail Emails - Volume 1
E-mail	8/19/2002	Cleary	Fireman, Raider, and Lellouche	Bruther	Stored Value Programs - Volume 1
Email	8/21/2002	Litwin	Raider, Lellouche		Aspen - Volume 1
E-mail	8/22/2002	Lellouche	Raider	Frauenhoffer and Kroc	Ann Raider Documents
E-mail	8/23/2002	Kahn	Lellouche		Staffing Emails - Volume 2
E-mail	8/23/2002	Sellinger	Christie, Lellouche, Tripp, Silk, Mason, Britton, Cleary, Ekendahl, Bruther, Casey, and Campanelli		Miscellaneous Meeting Minute E-mails
E-mail	8/28/2002	Fireman	Siemens	Lellouche	Stored Value Programs - Volume 2
Email	8/29/2002	Bruther	Coughlin	Lellouche, Cleary	Retail Emails - Volume 1
Email	8/30/2002	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
Email	9/3/2002	Fireman	Cleary	Lellouche	Retail Emails - Volume 3
Email	9/3/2002	Cleary	Raider, Lellouche	Coughlin, Bruther	Retail Emails - Volume 7
Email	9/4/2002	Fireman	Coughlin	Cleary, Lellouche	Retail Emails - Volume 2
Email	9/4/2002	Conn	Lellouche		Staffing Emails - Volume 1
Email	9/5/2002	Fireman	Coughlin	Cleary, Lellouche, Bruther	Retail Emails - Volume 1
Email	9/6/2002	Treiber	Benson, Lellouche, Adam		Aspen - Volume 1
Email	9/6/2002	Coughlin	Lellouche		Retail Emails - Volume 5
Email	9/10/2002	Litwin	Treiber	Reale, Raider, Lellouche	Retail Emails - Volume 1
Email	9/12/2002	Raider	Fireman, Garofalo, Kroc, Lellouche, Christie, Coughlin, Cleary	Bruther	Ann Raider Highlights 2002-2003
Email	9/12/2002	Treiber	Lellouche		Retail Emails - Volume 3
Email	9/13/2002	Treiber	Benson, Lellouche, Adam		Aspen - Volume 1
Email	9/13/2002	Litwin	Lellouche, Raider and Adam	Treiber	Retail Emails - Volume 5
E-mail	9/17/2002	Coughlin	Dipilato	Raider	Documents Supplied by Don Jack, January 2006-
E-mail	9/17/2002	Coughlin	Dipilato	Raider	John Linguiti File
Email	9/18/2002	Fireman	Bruther, Coughlin, Cleary and Lellouche		Retail Emails - Volume 3

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	9/18/2002	Fireman	Coughlin and Cleary	Lellouche	Retail Emails - Volume 5
Email	9/18/2002	Litwin	Raider, Adam and Treiber	Lellouche	Retail Emails - Volume 6
Email	9/18/2002	Roberts	Lellouche		Staffing Emails - Volume 2
E-mail	9/18/2002	Fireman	Lellouche		Stored Value Programs - Volume 1
E-mail	9/18/2002	Dipilato	Fireman	Quinn, Borrow, Raider, and Lellouche	Documents Supplied by Don Jack, January 2006-
E-mail	9/18/2002	Raider	Jack	Fireman	Documents Supplied by Don Jack, January 2006-
E-mail	9/18/2002	Dipilato	Fireman	Quinn, Borrow, Raider, and Lellouche	John Linguiti File
Email	9/19/2002	Fireman	Lellouche		Retail Emails - Volume 4
Email	9/19/2002	Treiber	Raider	Lellouche, Adam, Litwin	Retail Emails - Volume 7
E-mail	9/19/2002	Fireman	Siemens	Lellouche and Kroc	Stored Value Programs - Volume 1
E-mail	9/20/2002	Fireman	Lellouche		Stored Value Programs - Volume 1
E-mail	9/20/2002	Fireman	Lellouche and Raider		Stored Value Programs - Volume 2
E-mail	9/20/2002	Sellingier	Christie, Lellouche, Tripp, Silk, Mason, Britton, Bruther, Campanelli, Cleary, Ekendahl, Zitofsky, Casey		Miscellaneous Meeting Minute E-mails
E-mail	9/20/2002	Sellingier	Christie, Lellouche, Tripp, Silk, Mason, Britton, Bruther, Campanelli, Cleary, Ekendahl, Zitofsky, Casey		Miscellaneous Meeting Minute E-mails
E-mail	9/23/2002	Silk	Raider		Documents Supplied by Don Jack, January 2006-
E-mail	9/23/2002	Silk	Raider		John Linguiti File
E-mail	9/24/2002	Raider	Cleary	Bruther	Documents Supplied by Don Jack, January 2006-
E-mail	9/24/2002	Raider	Cleary	Bruther	John Linguiti File
E-mail	9/24/2002	Sellingier	Christie, Bruther, Casey, Britton, Lellouche, Zitofsky, Tripp, Ekendahl, Cleary, Mason, Silk, and Campanelli		Miscellaneous Meeting Minute E-mails
Email	9/25/2002	Fireman	Lellouche		Retail Emails - Volume 3
Email	9/26/2002	Treiber	Benson, Lellouche, Adam		Aspen - Volume 1
Email	9/26/2002	Treiber	Raider, Cleary, Bruther	Lellouche, Adam	Retail Emails - Volume 1
Email	9/27/2002	Treiber	Raider	Adam, Lellouche	Retail Emails - Volume 1
Email	9/30/2002	Fontaine	Lellouche		Ann Raider Highlights 2002-2003

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	9/30/2002	Sellinger	Christie, Bruther, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendahl, Cleary, Mason, Silk, and Campanelli		Miscellaneous Meeting Minute E-mails
Email	10/2/2002	Sanjani	Christie	Benson, Adam, Harde, Lellouche, Papalli, Doyle, McBean	Aspen - Volume 3
Email	10/2/2002	Siemens	Lellouche		Promotions
Email	10/3/2002	Treiber	McKenna, Cleary	Adam	Retail Emails - Volume 2
Email	10/4/2002	Fontaine	Locke, Lellouche		Ann Raider Highlights 2002-2003
Email	10/4/2002	Treiber	Benson, Lellouche, Adam		Aspen - Volume 1
Email	10/4/2002	Cleary	McKenna	Lellouche, Wogan, Bruther and Ruchalski	Retail Emails - Volume 6
Email	10/4/2002	Tripp	Lellouche and Roberts		Staffing Emails - Volume 2
Email	10/8/2002	Adam	Sanjani, Papalli, McBean, Doyle	Benson, Lellouche, Christie, Litwin, Treiber, Reale, Hughes	Retail Emails - Volume 1
Email	10/8/2002	Adam	Lellouche		Retail Emails - Volume 2
Email	10/9/2002	Frances	Lellouche	Moss	Aspen - Volume 3
Email	10/9/2002	Frances	Lellouche	Moss	Aspen - Volume 3
Email	10/10/2002	Litwin	Raider	Treiber, Lellouche	Retail Emails - Volume 1
Email	10/14/2002	Cleary	McKenna, Lellouche and Wogan	Slink, Bruther and Ruchalski	Retail Emails - Volume 4
Email	10/15/2002	Lellouche	Messinger		Retail Emails - Volume 5
Email	10/17/2002	Harde	Raider	Lellouche	Microsites
Email	10/17/2002	Siemens	Tripp, Lellouche		Retail Emails - Volume 7
Email	10/17/2002	Roberts	Sommer and Verdun	Tripp and Lellouche	Staffing Emails - Volume 2
Email	10/18/2002	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
Email	10/22/2002	Raider	Litwin, Adam, Treiber	Lellouche	Retail Emails - Volume 1
E-mail	10/23/2002	Sellinger	Christie, Bruther, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendahl, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
Email	10/24/2002	Ruchalski	Christie, Lellouche, Meyer and Garofalo	Sheridan	Staffing Emails - Volume 2
Email	10/25/2002	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
Email	10/25/2002	Coughlin	Fireman, Lellouche and Cleary		Retail Emails - Volume 5
Email	10/30/2002	Fireman	Lellouche		Retail Emails - Volume 2

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	10/31/2002	Cleary	Coughlin, Sellinger, Slake, Dinafflio, Leonard, Ekendahl and Zitofsky	Lellouche and Marciello	Staffing Emails - Volume 2
E-mail	10/31/2002	Cleary	Dipilato, Borrow, and Quinn	Raider, Lellouche, Ruchalski, and Bruther	Documents Supplied by Don Jack, January 2006-
E-mail	10/31/2002	Cleary	Dipilato, Borrow, and Quinn	Raider, Lellouche, Ruchalski, and Bruther	John Linguiti File
E-mail	11/4/2002	Raider	Fireman		Documents Supplied by Don Jack, January 2006-
E-mail	11/4/2002	Raider	Fireman		John Linguiti File
E-mail	11/5/2002	Raider	Ruchalski		Documents Supplied by Don Jack, January 2006-
E-mail	11/5/2002	Raider	Ruchalski		John Linguiti File
Email	11/6/2002	Tripp	Lellouche		Staffing Emails - Volume 2
Email	11/6/2002	Sheridan	Lellouche		
Email	11/11/2002	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
E-mail	11/12/2002	Jack	Fireman and Raider	Linguiti and Ludwig	Documents Supplied by Don Jack, January 2006-
Email	11/13/2002	Treiber	Raider	Litwin, Cleary, Adam, Lellouche	Retail Emails - Volume 1
E-mail	11/13/2002	Jack	Brooks		Documents Supplied by Don Jack, January 2006-
Email	11/15/2002	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
Email	11/15/2002	Treiber	Reale, Cleary	Raider, Lellouche, Adam	Retail Emails - Volume 7
Email	11/18/2002	Raider	Cleary	Lellouche	Ann Raider Highlights 2002-2003
Email	11/18/2002	Treiber	Siemsen	Lellouche	Aspen - Volume 4
Email	11/18/2002	Dipilato	McKenna and Beck	Wogan, Morrow, Quinn, Lellouche and Cleary	Retail Emails - Volume 4
Email	11/18/2002	Beck	Dipilato	Borrow, Quinn, Wogan, Lellouche, Cleary, Newman and Parniawski	Retail Emails - Volume 6
Email	11/19/2002	Raider	Garofalo, Lellouche, Wogan		Ann Raider Highlights 2002-2003
E-mail	11/19/2002	Sellinger	Christie, Siemsen, Bruther, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendahl, Cleary, Mason, Campanelli		Miscellaneous Meeting Minute E-mails
Email	11/20/2002	Raider	Cleary	Lellouche	Ann Raider Highlights 2002-2003
E-mail	11/20/2002	Fireman	Lellouche		Stored Value Programs - Volume 1
Email	11/21/2002	Raider	Kroc, Wogan	Lellouche, Fireman	Ann Raider Highlights 2002-2003
E-mail	11/21/2002	Sellinger	Silk, Mason, Britton, Siemsen	Lellouche and Tripp	Miscellaneous Meeting Minute E-mails

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	11/22/2002	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
E-mail	11/22/2002	Tripp	Borrow and Quinn	Lellouche and Raider	Documents Supplied by Don Jack, January 2006
E-mail	11/22/2002	Tripp	Borrow and Quinn	Lellouche and Quinn	John Linguiti File
Email	11/25/2002	Treiber	Benson, Lellouche, Adam		Aspen - Volume 1
Email	11/27/2002	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
E-mail	12/2/2002	Raider	Cleary	Bruther	John Linguiti File
Email	12/3/2002	Fireman	Lellouche		Retail Emails - Volume 3
Email	12/4/2002	Fontaine	Lellouche		Retail Emails - Volume 7
Email	12/4/2002	Rainforth	McKenna	Lellouche, Messenger	Retail Emails - Volume 7
Email	12/4/2002	Zitofsky	Lellouche	Cleary	Retail Emails - Volume 7
E-mail	12/5/2002	Sellinger	Christie, Siemsen, Bruther, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendhal, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
Email	12/6/2002	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
Email	12/9/2002	Raider	Lellouche		Ann Raider Highlights 2002-2003
Email	12/10/2002	Treiber	Lellouche		Retail Emails - Volume 4
E-mail	12/10/2002	Sellinger	Christie, Siemsen, Bruther, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendhal, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
Email	12/13/2002	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
Email	12/13/2002	Treiber	Raider	Adam, Lellouche, Benson	Retail Emails - Volume 7
Email	12/16/2002	Raider	Adam, Treiber, Litwin	Bruther, Lellouche, Cleary	Ann Raider Highlights 2002-2003
Email	12/17/2002	Litwin	Treiber, Reale	Raider, Lellouche	Retail Emails - Volume 1
Email	12/17/2002	Treiber	Raider and Lellouche	Adam, Litwin and Cleary	Retail Emails - Volume 6
Email	12/17/2002	Litwin	Treiber	Lellouche, Reale, Raider and Adam	Retail Emails - Volume 6
Email	12/17/2002	Treiber	Litwin	Lellouche, Reale, Raider, Granger and Adam	Retail Emails - Volume 6
Email	12/17/2002	Litwin	Treiber	Lellouche, Reale, Raider, Adam and Granger	Retail Emails - Volume 6
Email	12/18/2002	Raider	Lellouche		Ann Raider Highlights 2002-2003
Email	12/18/2002	Raider	Lellouche		Ann Raider Highlights 2002-2003

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	12/19/2002	Raider	Lellouche		Aspen - Volume 1
Email	12/19/2002	Reale	Litwin, Treiber	Raider, Lellouche	Aspen - Volume 4
Email	12/19/2002	Litwin	Reale, Treiber	Raider, Lellouche	Aspen - Volume 4
Email	12/19/2002	Litwin	McKenna	Lellouche	Retail Emails - Volume 4
Email	12/19/2002	Treiber	Lellouche	Raider, Adam and Benson	Retail Emails - Volume 6
E-mail	12/19/2002	Sellingier	Christie, Siemsen, Bruther, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendhal, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
Email	12/20/2002	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
E-mail	12/20/2002	Cleary	Fireman, Bruther, Lellouche, Christie, Ludwig, and Campanelli	Constantine and Raider	Documents Supplied by Don Jack, January 2006-
Email	12/23/2002	Treiber	Benson, Adam	Lellouche	Aspen - Volume 4
E-mail	12/23/2002	Cleary	Lellouche		Stored Value Programs - Volume 4
Email	12/24/2002	Treiber	McKenna	Adam, Lellouche and Cleary	Retail Emails - Volume 4
E-mail	12/30/2002	Cleary	Lellouche and Raider		Stored Value Programs - Volume 4
E-mail	12/30/2002	Cleary	Lellouche and Raider		Stored Value Programs - Volume 4
E-mail	12/30/2002	Cleary	Raider and Lellouche		Stored Value Programs - Volume 4
Email	1/2/2003	McKenna	Litwin	Logan, Lellouche and Adam	Retail Emails - Volume 3
Email	1/2/2003	McKenna	Lellouche	Wogan	Retail Emails - Volume 4
Email	1/2/2003	McKenna	Treiber	Litwin, Adam, Lellouche and Wogan	Retail Emails - Volume 4
Email	1/3/2003	Benson	Campanelli, Lellouche	Ruchalski	Greenpoints
Email	1/6/2003	Adam	Lellouche	Benson	Retail Emails - Volume 3
E-mail	1/6/2003	Cleary	Lellouche		Stored Value Programs - Volume 4
E-mail	1/7/2003	Sellingier	Coppola, Christie, Siemsen, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendahl, Cleary, Mason, Silk, and Campanelli		Miscellaneous Meeting Minute E-mails
Email	1/9/2003	Raider	Lellouche	Christie	Ann Raider Highlights 2002-2003
Email	1/10/2003	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
Email	1/10/2003	McGill	Lellouche		Retail Emails - Volume 4



# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
Email	1/10/2003	McGill	Lellouche		Retail Emails - Volume 4
Email	1/14/2003	Raider	Gogan, Kroc, Lellouche		Ann Raider Highlights 2002-2003
Email	1/14/2003	Schroeder	Bielot	Garofalo, Lellouche, Wogan	Retail Emails - Volume 8
Email	1/15/2003	Raider	Lellouche		Greenpoints
Email	1/15/2003	Treiber	Lellouche and Adam	Benson	Retail Emails - Volume 4
Email	1/15/2003	Sellinger	Coppola, Christie, Siemsen, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendahl, Cardoni, Cleary, Mason, Silk and Campanelli		Retail Sales Meetings 2002-2003
Email	1/16/2003	Raider	Cleary	Lellouche	Ann Raider Highlights 2002-2003
Email	1/16/2003	Rainforth	Raider and Lellouche		Retail Emails - Volume 5
Email	1/17/2003	Lellouche	Raider	Lippner, Garofalo, Christie	Ann Raider Highlights 2002-2003
E-mail	1/21/2003	Cleary	Lellouche		Stored Value Programs - Volume 4
E-mail	1/22/2003	Sellinger	Coppola, Christie, Siemsen, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendahl, Cardoni, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
Email	1/24/2003	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
Email	1/27/2003	Cleary	Lellouche		Retail Emails - Volume 1
Email	1/28/2003	Treiber	Lellouche		Retail Emails - Volume 3
Email	1/29/2003	Treiber	Benson	Lellouche	Retail Emails - Volume 4
Email	1/29/2003	Treiber	Hughes	Lellouche and Benson	Retail Emails - Volume 6
E-mail	1/29/2003	Sellinger	Coppola, Christie, Siemsen, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendahl, Cardoni, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
Email	1/30/2003	Benson	Campanelli, Lellouche and Christie		Retail Emails - Volume 4
Email	1/31/2003	Zitofsky	Lellouche and Cleary		Retail Emails - Volume 3
Email	1/31/2003	Hughes	Treiber	Lellouche and Benson	Retail Emails - Volume 6
E-mail	2/6/2003	Sellinger	Coppola, Christie, Siemsen, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendahl, Cardoni, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
Email	2/7/2003	Raider	Gogan, Kroc, Lellouche		Ann Raider Highlights 2002-2003
Email	2/10/2003	Christie	Lellouche and Harde		Staffing Emails - Volume 1

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	2/11/2003	Raider	Lellouche and Cleary		Stored Value Programs - Volume 4
E-mail	2/14/2003	Sellinger	Coppola, Christie, Siemsen, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendahl, Cardoni, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
Email	2/21/2003	Fontaine	Gogan, Kroc, Lellouche		Ann Raider Highlights 2002-2003
Email	2/23/2003	Lellouche	Campanelli, Christie, Linguiti, Benson		Greenpoints
Email	2/24/2003	Sheridan	Lellouche and Tripp	Christie	Staffing Emails - Volume 2
Email	2/26/2003	Fireman	Lellouche		Retail Emails - Volume 7
Email	2/28/2003	Fontaine	Gogan, Lellouche		Ann Raider Highlights 2002-2003
Email	2/28/2003	Cleary	Raider, Lellouche		Retail Emails - Volume 1
E-mail	3/3/2003	Cleary	Campanelli, Lellouche, Ruchalski, Coppola, Newman, Fitzpatrick, Dipilato, and Quinn	Raider	Stored Value Programs - Volume 4
E-mail	3/3/2003	Cleary	Lellouche		Stored Value Programs - Volume 4
E-mail	3/6/2003	Cleary	Lellouche		Stored Value Programs - Volume 4
E-mail	3/7/2003	Sheridan	Lellouche		Staffing Emails - Volume 2
Email	3/10/2003	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
E-mail	3/12/2003	Sellinger	Coppola, Christie, Siemsen, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendahl, Cardoni, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
Email	3/14/2003	Raider	Lellouche		Ann Raider Highlights 2002-2003
E-mail	3/14/2003	Cleary	Lellouche		Stored Value Programs - Volume 4
E-mail	3/18/2003	Cleary	Constantine	Lellouche and Campanelli	Stored Value Programs - Volume 4
E-mail	3/19/2003	Sellinger	Coppola, Christie, Siemsen, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendahl, Cardoni, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
Email	3/20/2003	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
Email	3/25/2003	Benson	Lellouche	Campanelli	Retail Emails - Volume 6
E-mail	3/25/2003	Fireman	Lellouche		Stored Value Programs - Volume 1
E-mail	3/25/2003	Fireman	Lellouche		Stored Value Programs - Volume 1

**NAM / Fireman and Raider: Internal E-mails Exhibit**

Doc. Type	Date	From	To	CC	
E-mail	3/25/2003	Sellinger	Coppola, Christie, Siemsen, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendhal, Cardoni, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
Email	3/28/2003	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
Email	3/28/2003	Cleary	Lellouche		Retail Emails - Volume 1
E-mail	4/1/2003	Sellinger	Coppola, Christie, Siemsen, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendhal, Cardoni, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
Email	4/4/2003	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
E-mail	4/8/2003	Sellinger	Coppola, Christie, Siemsen, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendhal, Cardoni, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
Email	4/10/2003	Fontaine	Lellouche		Ann Raider Highlights 2002-2003
Email	4/14/2003	Cleary	Dipilato, Quinn, Ruchalski, Coppola and Lellouche		Retail Emails - Volume 4
E-mail	4/15/2003	Bruther	Jack		Documents Supplied by Don Jack, January 2006-
E-mail	4/15/2003	Bruther	Jack		Documents Supplied by Don Jack, January 2006-
E-mail	4/15/2003	Sellinger	Coppola, Christie, Siemsen, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendhal, Cardoni, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
E-mail	4/16/2003	Jack	Dipilato		Documents Supplied by Don Jack, January 2006-
E-mail	4/18/2003	Coppola	Jack		Documents Supplied by Don Jack, January 2006-
Email	4/22/2003	Cleary	Lellouche	Ekendahl	Retail Emails - Volume 3
E-mail	4/22/2003	Sellinger	Coppola, Christie, Siemsen, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendhal, Cardoni, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
Email	4/29/2003	Cleary	Lellouche		Retail Emails - Volume 1
E-mail	4/29/2003	Sellinger	Coppola, Christie, Siemsen, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendhal, Cardoni, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
Email	4/30/2003	Cleary	Lellouche		Retail Emails - Volume 3
Email	5/1/2003	Fontaine	Gogan, Lellouche		Ann Raider Highlights 2002-2003
Email	5/2/2003	Fontaine	Lellouche		Ann Raider Highlights 2002-2003

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC
Email	5/7/2003	Sellinger	Coppola, Fontaine, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendahl, Cardoni, Cleary, Mason, Silk and Campanelli	Retail Sales Meetings 2002-2003
Email	5/8/2003	Fontaine	Lellouche	Ann Raider Highlights 2002-2003
E-mail	5/8/2003	Silk	Fontaine	Henri Lellocuhe Disc 2 - Volume II
E-mail	5/9/2003	Cardoni	Fontaine	Henri Lellocuhe Disc 2 - Volume II
E-mail	5/9/2003	Tripp	Fontaine	Henri Lellocuhe Disc 2 - Volume II
E-mail	5/13/2003	Sellinger	Coppola, Fontaine, Porco, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendhal, Cardoni, Cleary, Mason, Silk, Campanelli	Miscellaneous Meeting Minute E-mails
Email	5/15/2003	Fontaine	Lellouche	Ann Raider Highlights 2002-2003
Email	5/22/2003	Fontaine	Lellouche	Ann Raider Highlights 2002-2003
E-mail	5/27/2003	Sellinger	Coppola, Fontaine, Porco, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendhal, Cardoni, Cleary, Mason, Silk, Campanelli	Miscellaneous Meeting Minute E-mails
E-mail	5/28/2003	Sellinger	Coppola, Fontaine, Porco, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendhal, Cardoni, Cleary, Mason, Silk, Campanelli	Miscellaneous Meeting Minute E-mails
Email	6/3/2003	Cleary	Lellouche	Staffing Emails - Volume 1
E-mail	6/3/2003	Sellinger	Coppola, Fontaine, Porco, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendhal, Cardoni, Cleary, Mason, Silk, Campanelli	Miscellaneous Meeting Minute E-mails
Email	6/6/2003	Fontaine	Lellouche	Ann Raider Highlights 2002-2003
E-mail	6/6/2003	Sellinger	Coppola, Fontaine, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendahl, Cardoni, Cleary, and Mason	Miscellaneous Meeting Minute E-mails
E-mail	6/17/2003	Sellinger	Coppola, Fontaine, Porco, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendhal, Cardoni, Cleary, Mason, Silk, Campanelli	Miscellaneous Meeting Minute E-mails
E-mail	6/26/2003	Sellinger	Coppola, Fontaine, Porco, Britton, Lellouche, Sheridan, Zitofsky, Tripp, Slink, Ekendhal, Cardoni, Cleary, Mason, Campanelli	Miscellaneous Meeting Minute E-mails
Email	6/27/2003	Fontaine	Lellouche	Ann Raider Highlights 2002-2003
E-mail	7/2/2003	Sellinger	Coppola, Fontaine, Porco, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendhal, Cardoni, Cleary, Mason, Silk, Campanelli	Miscellaneous Meeting Minute E-mails

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	7/9/2003	Sellinger	Coppola, Fontaine, Porco, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendhal, Cardoni, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails
Email	7/24/2003	Cleary	Fireman	Lellouche	Retail Emails - Volume 7
E-mail	8/5/2003	Sellinger	Coppola, Fontaine, Porco, Britton, Lellouche, Sheridan, Zitofsky, Tripp, Slink, Ekendahl, Cleary, Russo, Mason, Campanelli		Miscellaneous Meeting Minute E-mails
E-mail	8/12/2003	Sellinger	Coppola, Fontaine, Porco, Britton, Lellouche, Sheridan, Zitofsky, Tripp, Slink, Ekendahl, Cleary, Russo, Mason, and Campanelli		Miscellaneous Meeting Minute E-mails
E-mail	8/22/2003	Sellinger	Coppola, Fontaine, Porco, Britton, Lellouche, Sheridan, Zitofsky, Tripp, Slink, Ekendahl, Cardoni, Cleary, Mason, Campanelli		Miscellaneous Meeting Minute E-mails
E-mail	8/26/2003	Sellinger	Coppola, Fontaine, Porco, Britton, Lellouche, Sheridan, Zitofsky, Tripp, Slink, Ekendahl, Cleary, Russo, Mason, Campanelli		Miscellaneous Meeting Minute E-mails
E-mail	9/5/2003	Sellinger	Coppola, Fontaine, Porco, Britton, Lellouche, Sheridan, Zitofsky, Tripp, Slink, Ekendahl, Cleary, Russo, Mason, Campanelli		Miscellaneous Meeting Minute E-mails
E-mail	9/11/2003	Sellinger	Coppola, Fontaine, Porco, Britton, Lellouche, Sheridan, Zitofsky, Tripp, Slink, Ekendahl, Cleary, Ruchalski, Russo, Mason, and Campanelli		Miscellaneous Meeting Minute E-mails
Email	9/18/2003	Cleary	Frauenhoffer and Sheridan	Lellouche	Staffing Emails - Volume 2
Email	9/18/2003	Cleary	Frauenhoffer and Sheridan	Lellouche	Staffing Emails - Volume 2
E-mail	9/18/2003	Sellinger	Coppola, Fontaine, Porco, Britton, Lellouche, Sheridan, Zitofsky, Tripp, Slink, Ekendahl, Cleary, Ruchalski, Russo, Mason, and Campanelli		Miscellaneous Meeting Minute E-mails
E-mail	9/23/2003	Machado	Jaworoski		Documents Supplied by Don Jack, January 2006-
E-mail	9/23/2003	Ekendahl	Tripp, Sellinger, Coppola, Sheridan, Russo, Lellouche, Porco, Campanelli, Ruchalski, Cleary, Mason, Briratin, Zitofsky, Fontaine, and Slink		Miscellaneous Meeting Minute E-mails
E-mail	9/29/2003	Gleason	Jack	Sevic and Liotta	Documents Supplied by Don Jack, January 2006-
E-mail	9/30/2003	Sellinger	Hay, Coppola, Fontaine, Porco, Britton, Lellouche, Sheridan, Zitofsky, Tripp, Slink, Ekendahl, Cleary, Ruchalski, Russo, Mason, and Campanelli		Miscellaneous Meeting Minute E-mails
Email	10/3/2003	Cleary	Sheridan	Lellouche	Staffing Emails - Volume 2

**NAM / Fireman and Raider: Internal E-mails Exhibit**

Doc. Type	Date	From	To	CC	
Email	10/6/2003	Cleary	Lellouche, Fireman, Raider, Ruchalski and Coppola	Fontaine, Zitofsky, Slink and Mochlas	Retail Emails - Volume 6
E-mail	10/23/2003	Sellinger	Britton, Campanelli, Cleary, Coppola, Ekendahl, Garofalo, Lellouche, Mason, Ruchalski, Russo, Sheridan, Slink, Tripp, and Zitofsky		Miscellaneous Meeting Minute E-mails
E-mail	10/24/2003	Coppola	Jack		Documents Supplied by Don Jack, January 2006
E-mail	10/27/2003	Raider	Jack		Documents Supplied by Don Jack, January 2006
E-mail	10/27/2003	Sellinger	Lellouche		Miscellaneous Meeting Minute E-mails
Email	10/28/2003	Raynforth	Lellouche		Coupon Card Program
Email	10/28/2003	Raynforth	Jensen	Lellouche, Harde	Coupon Card Program
Email	10/30/2003	Cleary	Lellouche		Coupon Card Program
Email	10/30/2003	Fireman	Lellouche	Cleary, Harde, Jensen	Coupon Card Program
Email	10/31/2003	Fireman	Raynforth, Lellouche		Coupon Card Program
E-mail	11/4/2003	Sellinger	Britton, Campanelli, Cleary, Coppola, Ekendahl, Garofalo, Lellouche, Mason, Ruchalski, Russo, Sheridan, Slink, Tripp, Zitofsky		Miscellaneous Meeting Minute E-mails
Email	11/5/2003	Raynforth	Lellouche		Coupon Card Program
Email	11/7/2003	Cleary	Lellouche, Ruchalski, Coppola, Mochlas	Fireman	Retail Emails - Volume 7
Email	11/13/2003	Janik	Lellouche		Coupon Card Program
E-mail	11/14/2003	Jack	Raider and Fireman		Documents Supplied by Don Jack, January 2006-
E-mail	11/14/2003	Jack	Raider and Fireman		Documents Supplied by Don Jack, January 2006-
E-mail	11/14/2003	Jack	Raider and Fireman		Documents Supplied by Don Jack, January 2006-
E-mail	11/14/2003	Ekendahl	Sellinger, Tripp, Lellouche, Russo, Cleary, Slink, Zitofsky, Mason, Britton, Campanelli, Garofalo, Ruchalski, Sheridan, and Coppola		Miscellaneous Meeting Minute E-mails
Email	11/17/2003	Raynforth	Lellouche		Coupon Card Program
E-mail	11/21/2003	Ekendahl	Ekendahl, Sellinger, Tripp, Lellouche, Russo, Cleary, Slink, Zitofsky, Mason, Glitton, Campanelli, Garofalo, Ruchalski, Sheridan, and Coppola		Miscellaneous Meeting Minute E-mails
E-mail	11/24/2003	Raider	Ludwig and Jack	Fireman	Documents Supplied by Don Jack, January 2006-
E-mail	12/1/2003	Sellinger	Britton, Campanelli, Cleary, Coppola, Ekendahl, Garofalo, Lellouche, Mason, Ruchalski, Russo, Sheridan, Slink, Tripp, Zitofsky		Miscellaneous Meeting Minute E-mails

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	12/4/2003	Carriero	Middlebrook, Jack, and Haga		Documents Supplied by Don Jack, January 2006
E-mail	12/5/2003	Sellinger	Britton, Campanelli, Cleary, Coppola, Ekendahl, Garofalo, Lellouche, Mason, Ruchalski, Russo, Sheridan, Slink, Tripp, Zitofsky		Miscellaneous Meeting Minute E-mails
Email	12/8/2003	Britton	Lellouche	Sheridan and Roberts	Staffing Emails - Volume 1
E-mail	12/10/2003	Ludwig	Raider	Fireman, Linguiti, and Jack	Documents Supplied by Don Jack, January 2006
E-mail	12/10/2003	Raider	Jack	Fireman, Linguiti, and Ludwig	Documents Supplied by Don Jack, January 2006
E-mail	12/10/2003	Raider	Ludwig	Linguiti, Fireman, and Jack	Documents Supplied by Don Jack, January 2006
E-mail	12/10/2003	Ludwig	Raider	Linguiti, Fireman, and Jack	Documents Supplied by Don Jack, January 2006
E-mail	12/10/2003	Ludwig	Jack		Documents Supplied by Don Jack, January 2006
E-mail	12/10/2003	Jack	Ludwig		Documents Supplied by Don Jack, January 2006
Email	12/15/2003	Raynforth	Lellouche, Russo		Coupon Card Program
E-mail	12/24/2003	Ekendahl	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Sheridan, Slink, Tripp, Zitofsky		Miscellaneous Meeting Minute E-mails
Email	12/30/2003	Raynforth	Lellouche		Coupon Card Program
Email	1/8/2004	Dietrich	Meyer	Roberts, Parniawsky, Lellouche, Garofalo and Maze	Staffing Emails - Volume 2
E-mail	1/9/2004	Ekendahl	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Sheridan, Slink, Tripp, Zitofsky, and Philipps		Miscellaneous Meeting Minute E-mails
Email	1/13/2004	Ekendahl	Lellouche, Cleary		Retail Emails - Volume 1
E-mail	1/14/2004	Ludwig	Raider	Jack and Linguiti	Documents Supplied by Don Jack, January 2006
E-mail	1/26/2004	Fontaine	Lellouche		Miscellaneous Meeting Minute E-mails
E-mail	1/26/2004	Fontaine	Carlucci, Mixon, Lellouche, Tripp, Mason, Russo, Philipps, and Ruchalski		Miscellaneous Meeting Minute E-mails
E-mail	1/26/2004	Fontaine	Lellouche, Cleary, Tripp, Mason, Philipps, Russo, and Coppola		Miscellaneous Meeting Minute E-mails
E-mail	2/2/2004	Fontaine	Lellouche		Miscellaneous Meeting Minute E-mails
Email	2/10/2004	Colovos	Lellouche		Staffing Emails - Volume 2
Email	2/10/2004	Colovos	Lellouche		Staffing Emails - Volume 2

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	2/10/2004	Slink	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Ruchalski, Russo, Zitofsky, and Philipps		Miscellaneous Meeting Minute E-mails
E-mail	2/23/2004	Raider	Ludwig	Fireman	John Linguiti File
E-mail	3/3/2004	Slink	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Zitofsky, and Philipps		Miscellaneous Meeting Minute E-mails
E-mail	3/5/2004	Ludwig	Linguiti		John Linguiti File
E-mail	3/23/2004	Slink	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Zitofsky, and Philipps		Miscellaneous Meeting Minute E-mails
E-mail	4/6/2004	Frauenhoffer	Meyer and Garofalo		Ann Raider Documents
E-mail	4/7/2004	Cleary	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Zitofsky, and Philipps		Miscellaneous Meeting Minute E-mails
E-mail	4/15/2004	Meyer	Garofalo and Frauenhoffer		Ann Raider Documents
E-mail	4/19/2004	Slink	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Zitofsky, Philipps, and Brady		Miscellaneous Meeting Minute E-mails
E-mail	4/27/2004	Slink	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Zitofsky, Philipps, and Brady		Miscellaneous Meeting Minute E-mails
E-mail	5/3/2004	Fireman	Garofalo		Marty Garofalo Disc Production
E-mail	5/4/2004	Slink	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Zitofsky, Philipps, Brady, and Meth		Miscellaneous Meeting Minute E-mails
E-mail	5/11/2004	Cleary	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Zitofsky, Philipps, and Brady		Miscellaneous Meeting Minute E-mails
E-mail	5/17/2004	Slink	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Zitofsky, Philipps, Brady, and Meth		Miscellaneous Meeting Minute E-mails
E-mail	5/20/2004	Fireman	Garofalo		Marty Garofalo Disc Production
E-mail	5/25/2004	Slink	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Zitofsky, Philipps, Brady, and Meth		Miscellaneous Meeting Minute E-mails
E-mail	5/26/2004	Fireman	Garofalo		Marty Garofalo Disc Production
E-mail	5/27/2004	Raider	Jack		Documents Supplied by Don Jack, January 2006-



# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	5/27/2004	Jack	Raider and Fireman		Documents Supplied by Don Jack, January 2006
E-mail	6/14/2004	Slink	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Zitofsky, Philipps, Brady, and Meth		Miscellaneous Meeting Minute E-mails
E-mail	6/16/2004	Fireman	Raider	Garofalo	Marty Garofalo Disc Production
E-mail	6/21/2004	Fireman	Garofalo, Lellouche, and Raider		Marty Garofalo Disc Production
E-mail	6/22/2004	Slink	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Zitofsky, Philipps, Brady, and Meth		Miscellaneous Meeting Minute E-mails
E-mail	6/23/2004	Lellouche	Frauenhoffer and Garofalo		
E-Mail	6/29/2004	Fireman	Lellouche	Philipps, Raider, and Garofalo	Marty Garofalo Disc Production
E-mail	6/30/2004	Slink	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Zitofsky, Philipps, Brady, and Meth		Miscellaneous Meeting Minute E-mails
E-mail	7/14/2004	Slink	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Zitofsky, Philipps, Brady, and Meth		Miscellaneous Meeting Minute E-mails
E-mail	7/21/2004	Slink	Cleary, Campanelli, Garofalo, Lellouche, Mason, Ruchalski, Russo, Coppola, Zitofsky, Philipps, Brady, and Meth		Henri Lellocuhe Disc 2 - Volume III
E-mail	7/21/2004	Slink	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Zitofsky, Philipps, Brady, and Meth		Miscellaneous Meeting Minute E-mails
E-mail	8/2/2004	Slink	Cleary, Campanelli, Garofalo, Lellouche, Mason, Ruchalski, Russo, Coppola, Zitofsky, Philipps, Brady, and Meth		Henri Lellocuhe Disc 2 - Volume III
E-mail	8/16/2004				Henri Lellocuhe Disc 2 - Volume III
E-mail	8/17/2004	Slink	Cleary, Campanelli, Garofalo, Lellouche, Mason, Ruchalski, Russo, Coppola, Zitofsky, Philipps, Brady, and Meth		Henri Lellocuhe Disc 2 - Volume III
E-mail	8/17/2004	Slink	Campanelli, Cleary, Coppola, Garofalo, Lellouche, Mason, Ruchalski, Russo, Zitofsky, Philipps, Brady, and Meth		Miscellaneous Meeting Minute E-mails
E-mail	8/30/2004	Slink	Cleary, Campanelli, Garofalo, Lellouche, Ruchalski, Russo, Coppola, Zitofsky, Philipps, Brady, and Meth		
E-mail	9/1/2004	Liotta	Jack		Documents Supplied by Don Jack, January 2006-

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	9/2/2004	Jack	Raider and Fireman		Documents Supplied by Don Jack, January 2006
E-mail	9/9/2004	Frauenhoffer	H.R. Admin – Full time	Meyer and Sole	Robert Fireman Documents
E-mail	9/9/2004	Slink	Cleary, Campanelli, Garofalo, Lellouche, Ruchalski, Russo, Coppola, Zitofsky, Philipps, Brady, and Meth		Henri Lellocuhe Disc 2 - Volume III
E-mail	9/9/2004	Slink	Cleary, Campanelli, Garofalo, Lellouche, Ruchalski, Russo, Coppola, Zitofsky, Philipps, Brady, and Meth		Miscellaneous Meeting Minute E-mails
E-mail	9/17/2004	Fireman	Cleary	Raider, Lellouche, and Garofalo	Marty Garofalo Disc Production
E-mail	9/17/2004	Fireman	Garofalo		Marty Garofalo Disc Production
E-mail	9/23/2004	Fireman	Garofalo	Casey	Marty Garofalo Disc Production
E-mail	9/28/2004	Slink	Cleary, Campanelli, Garofalo, Lellouche, Ruchalski, Russo, Coppola, Zitofsky, Philipps, Brady, and Meth		Henri Lellocuhe Disc 2 - Volume III
E-mail	9/28/2004	Fireman	Garofalo		Henri Lellocuhe Disc 2 - Volume III
E-mail	9/28/2004	Slink	Cleary, Campanelli, Garofalo, Lellouche, Ruchalski, Russo, Coppola, Zitofsky, Philipps, Brady, and Meth		Miscellaneous Meeting Minute E-mails
E-mail	9/29/2004	Fireman	Garofalo		Marty Garofalo Disc Production
E-mail	9/30/2004	Fireman	Garofalo		Marty Garofalo Disc Production
E-mail	9/30/2004	Fireman	Raider	Garofalo	Marty Garofalo Disc Production
E-mail	10/6/2004	Raider	Carr, Lellouche, and Dipilato		Stored Value Programs - Volume 1
E-mail	10/7/2004	Liotta	Jack		Documents Supplied by Don Jack, January 2006-
E-mail	11/2/2004	Slink	Cleary, Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazan, Philipps, Brady, and Meth		Henri Lellocuhe Disc 2 - Volume III
E-mail	11/2/2004	Slink	Cleary, Campanelli, Garofalo, Lellouche, Ruchalski, Russo, Coppola, Zitofsky, Philipps, Brady, and Meth		Miscellaneous Meeting Minute E-mails
E-mail	11/9/2004	Raider	Jack		Documents Supplied by Don Jack, January 2006-
E-mail	11/9/2004	Slink	Cleary, Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazan, Philipps, Brady, and Meth		Henri Lellocuhe Disc 2 - Volume III
E-mail	11/9/2004	Slink	Cleary, Campanelli, Garofalo, Lellouche, Ruchalski, Russo, Coppola, Zitofsky, Philipps, Brady, and Meth		Miscellaneous Meeting Minute E-mails
E-mail	11/10/2004	Jack	Raider		Documents Supplied by Don Jack, January 2006-
E-mail	11/12/2004	Sellinger	Christie, Bruther, Casey, Britton, Lellouche, Zitofsky, Tripp, Slink, Ekendahl, Cleary, Mason, Silk, Campanelli		Miscellaneous Meeting Minute E-mails

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC
E-mail	11/16/2004	Slink	Cleary, Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazan, Philipps, Brady, and Meth	Henri Lellocuhe Disc 2 - Volume III
E-mail	11/16/2004	Slink	Cleary, Campanelli, Garofalo, Lellouche, Ruchalski, Russo, Coppola, Zitofsky, Philipps, Brady, and Meth	Miscellaneous Meeting Minute E-mails
E-mail	11/22/2004	Raider	Jack	Documents Supplied by Don Jack, January 2006
E-mail	11/23/2004	Slink	Cleary, Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazan, Philipps, Brady, and Meth	Henri Lellocuhe Disc 2 - Volume III
E-mail	11/23/2004	Slink	Cleary, Campanelli, Garofalo, Lellouche, Ruchalski, Russo, Coppola, Zitofsky, Philipps, Brady, and Meth	Miscellaneous Meeting Minute E-mails
E-mail	11/30/2004	Liotta	Jack	Documents Supplied by Don Jack, January 2006
E-mail	11/30/2004	Liotta	Jack	Documents Supplied by Don Jack, January 2006
E-mail	12/7/2004	Slink	Cleary, Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazan, Philipps, Brady, and Meth	Henri Lellocuhe Disc 2 - Volume III
E-mail	12/7/2004	Slink	Cleary, Campanelli, Garofalo, Lellouche, Ruchalski, Russo, Coppola, Zitofsky, Philipps, Brady, and Meth	Miscellaneous Meeting Minute E-mails
E-mail	12/20/2004	Cleary	Garofalo, Lellouche, Campanelli, Ruchalski, Cleary, Russo, Coppola, Hazen, Philipps, Brady, and Meth	Henri Lellocuhe Disc 2 - Volume III
E-mail	12/20/2004			Henri Lellocuhe Disc 2 - Volume III
E-mail	12/20/2004	Cleary	Cleary, Campanelli, Garofalo, Lellouche, Ruchalski, Russo, Coppola, Zitofsky, Philipps, Brady, and Meth	Miscellaneous Meeting Minute E-mails
E-mail	1/4/2005	Cleary	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazen, Brady, and Meth	Henri Lellocuhe Disc 2 - Volume III
E-mail	1/4/2005	Cleary	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazen, Brady, and Meth	Miscellaneous Meeting Minute E-mails
E-mail	1/11/2005	Cleary	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazen, Brady, and Meth	Henri Lellocuhe Disc 2 - Volume III
E-mail	1/11/2005	Cleary	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazen, Brady, and Meth	Henri Lellocuhe Disc 2 - Volume III
E-mail	1/11/2005	Cleary	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazan, Brady, Meth	Miscellaneous Meeting Minute E-mails
E-mail	2/7/2005	Cleary	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazen, Brady, Meth, and Alesio	Henri Lellocuhe Disc 2 - Volume III
E-mail	2/7/2005	Cleary	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazen, Brady, Meth, and Alesio	Henri Lellocuhe Disc 2 - Volume III

# NAM / Fireman and Raider: Internal E-mails Exhibit

Doc. Type	Date	From	To	CC	
E-mail	2/8/2005	Raider	Jack		Documents Supplied by Don Jack, January 2006
E-mail	2/9/2005	Raider	Jack		Documents Supplied by Don Jack, January 2006
E-mail	2/17/2005	Raider	Jack		Documents Supplied by Don Jack, January 2006
E-mail	2/17/2005	Raider	Jack		Documents Supplied by Don Jack, January 2006
E-mail	2/17/2005	Raider	Jack		Documents Supplied by Don Jack, January 2006
E-mail	2/17/2005	Raider	Jack		Documents Supplied by Don Jack, January 2006
E-mail	2/23/2005	Cleary	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazen, Brady, Meth, and Alesio		Henri Lellocuhe Disc 2 - Volume III
E-mail	2/23/2005	Cleary	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazen, Brady, Meth, and Alesio		Henri Lellocuhe Disc 2 - Volume III
E-mail	2/24/2005	Raider	Jack		Documents Supplied by Don Jack, January 2006
E-mail	3/1/2005	Raider	Jack		Documents Supplied by Don Jack, January 2006
E-mail	3/3/2005	Raider	Jack		Documents Supplied by Don Jack, January 2006
E-mail	3/4/2005	Raider	Ludwig	Jack and Linguiti	Documents Supplied by Don Jack, January 2006
E-mail	3/4/2005	Raider	Ludwig	Jack	Documents Supplied by Don Jack, January 2006
E-mail	3/4/2005	Ludwig	Raider	Jack and Linguiti	Documents Supplied by Don Jack, January 2006
E-mail	3/4/2005	Ludwig	Raider	Jack and Linguiti	Documents Supplied by Don Jack, January 2006
E-mail	3/7/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazen, Brady, Meth, and Cleary		Henri Lellocuhe Disc 2 - Volume III
E-mail	3/7/2005	Cleary	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazen, Brady, Meth, and Alesio		Henri Lellocuhe Disc 2 - Volume III
E-mail	3/7/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazen, Brady, Meth, Alesio, and Cleary		Henri Lellocuhe Disc 2 - Volume III
E-mail	3/7/2005	Cleary	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazen, Brady, Meth, and Alesio		Henri Lellocuhe Disc 2 - Volume III
E-mail	3/15/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazen, Brady, Meth, and Cleary		Henri Lellocuhe Disc 2 - Volume III
E-mail	3/15/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazen, Brady, Meth, Alesio, and Cleary		Henri Lellocuhe Disc 2 - Volume III
E-mail	3/15/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Coppola, Hazen, Brady, Meth, Alesio, and Cleary		Miscellaneous Meeting Minute E-mails

**NAM / Fireman and Raider: Internal E-mails Exhibit**

Doc. Type	Date	From	To	CC	
E-mail	4/4/2005	Frauenhoffer	H.R. Admin – Full time	Glick, Sole, and Sevick	Ann Raider Documents
E-mail	6/9/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazen, Brady, Pagnani, LaValle, Lonergan, Mullin, Weeden, and Westrell		Henri Lellocuhe Disc 2 - Volume III
E-mail	6/9/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazen, Brady, Pagnani, LaValle, Lonergan, Mullin, Weeden, and Westrell		Henri Lellocuhe Disc 2 - Volume III
E-mail	6/14/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazen, Brady, Pagnani, LaValle, Lonergan, Mullin, Weeden, and Westrell		Henri Lellocuhe Disc 2 - Volume III
E-mail	6/14/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazen, Brady, Pagnani, LaValle, Lonergan, Mullin, Weeden, and Westrell		Henri Lellocuhe Disc 2 - Volume III
E-mail	7/5/2005	Cleary	Lavalle and Lellouche		Stored Value Programs - Volume 2
E-mail	8/9/2005	Alesio	Garofalo, Lellouche, Campanellio, Ruchalski, Russo, Hazen, Brady, Pagnani, LaValle, Lonergan, Mullin, Weeden, Westrell, and Lewen		Miscellaneous Meeting Minute E-mails
E-mail	8/29/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazen, Brady, Pagnani, LaValle, Lonergan, Mullin, Weeden, Westrell, and Lewen		Henri Lellocuhe Disc 2 - Volume III
E-mail	8/29/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazen, Brady, Pagnani, LaValle, Lonergan Mullin, Weeden, Westrell, and Lewen		Miscellaneous Meeting Minute E-mails
E-mail	9/8/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazen, Brady, Pagnani, LaValle, Lonergan, Mullin, Weeden, Westrell, Silverman, and Lewen		Henri Lellocuhe Disc 2 - Volume III
E-mail	9/8/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazan, Brady, Pagnani, Levalle, Lonergan, Mullin, Weeden, Westrell, Silverman, Lewen		Miscellaneous Meeting Minute E-mails
E-mail	9/14/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazen, Brady, Pagnani, LaValle, Lonergan, Mullin, Weeden, Westrell, Silverman, Lewen		Henri Lellouche Disc Production
E-mail	10/21/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazan, Brady, Pagnani, Levalle, Lonergan, Mullin, Weeden, Westrell, Silverman, Lewen		Miscellaneous Meeting Minute E-mails
E-mail	11/4/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazan, Brady, Pagnani, Levalle, Lonergan, Mullin, Weeden, Westrell, Silverman, Lewen		Miscellaneous Meeting Minute E-mails

**NAM / Fireman and Raider: Internal E-mails Exhibit**

Doc. Type	Date	From	To	CC
E-mail	11/22/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazan, Brady, Pagnani, Levalle, Lonergan, Mullin, Weeden, Westrell, Silverman, Lewen	Miscellaneous Meeting Minute E-mails
E-mail	11/23/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazan, Brady, Pagnani, LaValle, Lonergan, Mullin, Weeden, Westrell, Silverman, and Lewen	Henri Lellocuhe Disc 2 - Volume III
E-mail	11/23/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazan, Brady, Pagnani, LaValle, Lonergan, Mullin, Weeden, Westrell, Silverman, and Lewen	Henri Lellocuhe Disc 2 - Volume III
E-mail	11/23/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazan, Brady, Pagnani, Levalle, Lonergan, Mullin, Weeden, Westrell, Silverman, Lewen	Miscellaneous Meeting Minute E-mails
E-mail	11/30/2005	Alesio	Garofalo, Lellouche, Campanelli, Ruchalski, Russo, Hazan, Brady, Pagnani, Levalle, Lonergan, Mullin, Weeden, Westrell, Silverman, Lewen	Miscellaneous Meeting Minute E-mails

## **EXHIBIT 13**

Adam  
Alesio  
Anello  
Annis-Lopez  
Arcuri  
Aversano  
Bacher  
Beck  
Bedell  
Belka  
Benson  
Bielot  
Bisram  
Blanco  
Borrow  
Borthwick  
Borzumato  
Bowker  
Brady  
Breece  
Breslin  
Britton  
Brooks  
Bruchowsky  
Bruther  
Campanelli  
Cappucci  
Cardoni  
**Carlucci**  
Carr  
Carriero  
Casey  
Charboneau  
Charm  
Christie  
Cleary  
Cohen  
Cole  
Colovos  
Conn  
Connolly  
Constantine  
Coppola  
Coughlin  
Crane

Crowther  
D'Onofrio  
Davenport  
DeGiorgio  
**DeVoe**  
Dietrich  
Dilts  
Dinafflio  
Dipilato  
Doyle  
Eckman  
Edelman  
Ekendahl  
Emmel  
Evans  
Fireman  
Fishkin  
Fitzpatrick  
Fontaine  
Frances  
Frauenhoffer  
**Gaffney**  
**Garofolo**  
Geswell  
Gilleaudeau  
Gillin  
Gilpin  
Giovannone  
Gleason  
Glick  
Glitton  
Gogan  
Goodkin  
Goodstadt  
Granger  
Grieco  
Guttmann  
H.R.Admin-Fulltime  
Haga  
**Harde**  
Harding  
Hay  
Hazan  
Henderson  
Henderson

Holzhacker  
Hughes  
Hurme  
Jack  
Janik  
Jaworoski  
**Jenson**  
Joress  
Kahn  
Keltz  
Kroc  
LaJeunesse  
Landy  
Lavalle  
Lear  
**Lellouche**  
Leo  
Leonard  
Leprine  
Lewen  
LeWorthy  
Liebergall  
Linguiti  
Liotta  
Lippner  
Litwin  
Locke  
Logan  
London  
Lonergan  
Lubin  
Ludwig  
Luh  
Luteyn  
Ma  
MacArthur  
Machado  
Maguire  
Mallen  
Marciello  
Marmo  
Martins  
Mason  
Mattimore  
Maze



McAndrew  
McBean  
McGill  
McKenna  
McMellin  
Melvin  
Mercure  
Messenger  
Meth  
Meyer  
Michels  
Middlebrook  
**Mixson**  
Mochlas  
Molligo  
Moore  
Moreno  
Morrow  
Mosa  
Moss  
Mullin  
Mumm  
Murdoch  
NAM-IGroup/all  
Nave  
Neff  
Nelson  
Nesbitt  
Nesprido  
Newman  
Nicks  
Norin  
O'Connell  
O'Neil  
Openshaw  
Pacca

Pagnani  
Palko  
Papalli  
Pardo  
Parniawski  
Peiser  
Philipps  
**Porco**  
Porlein  
Poulos  
Quinn  
**Racano**  
Raider  
Rainforth  
Reale  
Reed  
Ringus  
Roberts  
Rochelle  
Roseman  
Rubber  
**Rubin**  
Ruchalski  
Russo  
Sabino  
Sanjani  
Skena  
Schroeder  
Schulman  
Schulze  
Schulze  
Sellinger  
Serio  
Sevick  
Sheridan  
Siemsen

Silk  
Silverman  
Sinansky  
Skarnulis  
Slink  
Sole  
Sommer  
Sonsky  
SSIGroup-Direct  
Stappler  
Stasiewicz  
Stasiewicz  
Stasiewicz  
Steinmetz  
Stern  
Stewarts  
Sturdivant  
Suarez  
Sutherland  
Taylor  
Teeter  
Tibbs  
Treharne  
Treiber  
Tripp  
Trippler  
Verdun  
Webber  
Weeden  
Weiss  
Westrell  
Willis  
Wogan  
Wolfe  
Yarzynski  
Zitofsky

## **EXHIBIT 14**

# NAM / Fireman and Raider: Meeting Minutes Exhibit

Document Type	Date	Type of Meeting Minute	Binder
Meeting Minute	6/21/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	6/22/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	6/28/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	6/28/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	6/29/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	7/6/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	7/6/1999	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	7/6/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	7/12/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	7/12/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	7/13/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	7/19/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	7/19/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	7/20/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	7/20/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	7/26/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	7/26/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	7/27/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	8/2/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	8/2/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	8/3/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	8/9/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	8/9/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	8/10/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	8/16/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	8/16/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	8/17/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	8/23/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	8/23/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	8/24/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	8/30/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	8/30/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	8/31/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	9/7/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	9/7/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	9/8/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	9/13/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	9/13/1999	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)

# NAM / Fireman and Raider: Meeting Minutes Exhibit

Document Type	Date	Type of Meeting Minute	Binder
Meeting Minute	9/13/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	9/14/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	9/20/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	9/20/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	9/21/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	9/28/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	10/4/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	10/4/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	10/4/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	10/5/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	10/11/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	10/11/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	10/11/1999	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	10/11/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	10/12/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	10/18/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	10/18/1999	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	10/19/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	10/25/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	10/25/1999	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	10/25/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	10/26/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	11/1/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	11/1/1999	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	11/1/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	11/2/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	11/8/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	11/8/1999	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	11/8/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	11/9/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	11/15/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	11/15/1999	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	11/15/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	11/15/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	11/16/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	11/22/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	11/22/1999	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	11/22/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)

# NAM / Fireman and Raider: Meeting Minutes Exhibit

Document Type	Date	Type of Meeting Minute	Binder
Meeting Minute	11/23/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	11/29/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	11/29/1999	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	11/29/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	11/30/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	12/6/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	12/6/1999	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	12/6/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	12/7/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	12/13/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	12/13/1999	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	12/13/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	12/14/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	12/20/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	12/20/1999	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	12/20/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	12/21/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	12/27/1999	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	12/27/1999	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	12/27/1999	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	12/28/1999	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	1/3/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	1/3/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	1/3/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	1/4/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	1/10/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	1/10/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	1/10/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	1/11/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	1/17/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	1/17/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	1/17/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	1/18/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	1/24/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	1/24/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	1/25/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	1/31/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	1/31/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)



# NAM / Fireman and Raider: Meeting Minutes Exhibit

Document Type	Date	Type of Meeting Minute	Binder
Meeting Minute	1/31/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	2/1/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	2/7/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	2/7/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	2/8/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	2/14/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	2/14/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	2/14/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	2/14/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	2/15/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	2/22/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	2/22/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	2/22/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	2/23/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	2/28/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	2/28/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	2/28/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	2/29/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	3/6/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	3/6/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	3/7/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	3/13/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	3/13/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	3/13/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	3/13/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	3/14/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	3/20/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	3/20/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	3/20/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	3/21/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	3/27/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	3/27/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	3/27/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	3/28/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	4/3/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	4/3/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	4/3/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	4/4/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)

# NAM / Fireman and Raider: Meeting Minutes Exhibit

Document Type	Date	Type of Meeting Minute	Binder
Meeting Minute	4/10/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	4/10/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	4/10/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	4/11/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	4/17/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	4/17/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	4/17/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	4/18/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	4/24/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	4/24/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	4/24/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	4/25/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	5/1/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	5/1/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	5/1/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	5/2/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	5/8/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	5/8/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	5/9/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	5/9/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	5/15/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	5/15/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	5/15/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	5/16/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	5/22/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	5/22/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	5/22/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	5/23/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	5/30/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	5/30/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	5/30/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	5/31/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	6/5/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	6/5/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	6/5/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	6/6/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	6/12/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	6/12/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)

# NAM / Fireman and Raider: Meeting Minutes Exhibit

Document Type	Date	Type of Meeting Minute	Binder
Meeting Minute	6/12/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	6/13/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	6/19/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	6/19/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	6/19/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	6/20/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	6/26/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	6/26/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	6/26/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	6/27/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	7/5/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	7/5/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	7/5/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	7/10/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	7/10/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	7/10/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	7/11/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	7/17/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	7/17/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	7/17/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	7/17/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	7/18/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	7/24/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	7/24/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	7/24/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	7/25/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	7/31/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	7/31/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	7/31/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	8/1/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	8/7/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	8/7/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	8/7/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	8/8/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	8/14/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	8/14/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	8/15/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	8/21/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)



# NAM / Fireman and Raider: Meeting Minutes Exhibit

Document Type	Date	Type of Meeting Minute	Binder
Meeting Minute	8/21/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	8/21/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	8/21/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	8/22/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	8/28/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	8/28/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	8/28/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	8/29/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	9/5/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	9/5/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	9/5/2000	Management Council Meeting	NAM Management Council Meeting (6/28/99 – 9/5/00)
Meeting Minute	9/6/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	9/11/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	9/11/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	9/12/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	9/18/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	9/25/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	9/25/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	9/26/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	10/2/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	10/2/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	10/3/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	10/9/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	10/9/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	10/10/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	10/16/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	10/16/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	10/17/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	10/23/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	10/23/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	10/23/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	10/30/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	10/30/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	10/31/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	11/6/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	11/6/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	11/7/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	11/13/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)

# NAM / Fireman and Raider: Meeting Minutes Exhibit

Document Type	Date	Type of Meeting Minute	Binder
Meeting Minute	11/13/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	11/14/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	11/20/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	11/20/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	11/21/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	11/27/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	11/27/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	11/28/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	12/4/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	12/4/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	12/5/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	12/11/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	12/11/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	12/12/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	12/18/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	12/18/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	12/19/2000	In-Store Executive Committee	NAM In-Store Executive Committee (6/22/99 – 12/19/00)
Meeting Minute	12/26/2000	Executive Committee	NAM Executive Committee Meeting (6/21/99 – 12/26/00)
Meeting Minute	12/26/2000	FSI Executive Committee	NAM FSI Executive Committee (7/6/99 – 12/26/00)
Meeting Minute	4/24/2001	SSD Executive Meeting	2000 – 2001 Highlights and Minutes - Volume 2
Meeting Minute	5/29/2001	SmartSource IGroup Executive Committee Meeti	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	6/4/2001	SmartSource IGroup Executive Committee Meeti	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	6/11/2001	SmartSource IGroup Executive Committee Meeti	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	6/18/2001	SmartSource IGroup Executive Committee Meeti	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	6/25/2001	SmartSource IGroup Executive Committee Meeti	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	6/25/2001	SmartSource IGroup Executive Committee Meeti	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	7/16/2001	SmartSource IGroup Executive Committee Meeti	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	7/23/2001	SmartSource IGroup Executive Committee Meeti	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	7/30/2001	SmartSource IGroup Executive Committee Meeti	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	8/6/2001	SmartSource IGroup Executive Committee Meeti	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	8/13/2001	SmartSource IGroup Executive Committee Meeti	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	8/27/2001	SmartSource IGroup Executive Committee Meeti	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	9/4/2001	SmartSource IGroup Executive Committee Meeti	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	9/5/2001	Smart Source Direct Executive	2000 – 2001 Highlights and Minutes - Volume 2
Meeting Minute	9/5/2001	SmartSource Direct Executive Committee Meetin	Henri Lellocuhe Document Production General Binder
Meeting Minute	9/10/2001	SmartSource IGroup Executive Committee Meeti	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	9/17/2001	SmartSource IGroup Executive Committee Meeti	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	9/24/2001	SmartSource IGroup Executive Committee Meeti	Henri Lellocuhe Disc 2 - Volume III

# NAM / Fireman and Raider: Meeting Minutes Exhibit

Document Type	Date	Type of Meeting Minute	Binder
Meeting Minute	11/5/2001	Smart Source Direct Manufacturing Sales Meetin	Retail Sales Meetings 2002-2003
Meeting Minute	11/5/2001	Smart Source Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	11/5/2001	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/12/2001	SmartSource Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	11/19/2001	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/20/2001	SmartSource Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	11/26/2001	SmartSource Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	12/10/2001	Smart Source Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	12/10/2001	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	12/17/2001	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	1/2/2002	SmartSource Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	1/2/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	1/7/2002	Smart Source Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	1/13/2002	Smart Source Direct Manufacturing Sales Meetin	Retail Sales Meetings 2002-2003
Meeting Minute	1/14/2002	Smart Source Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	1/14/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	1/14/2002	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	1/28/2002	Smart Source Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	2/4/2002	Smart Source Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	2/4/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	2/11/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	2/19/2002	SmartSource Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	2/19/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	2/25/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	3/4/2002	SmartSource Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	3/4/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	3/11/2002	SmartSource Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	3/11/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	3/18/2002	SmartSource Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	3/18/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	3/25/2002	SmartSource Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	3/25/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	4/1/2002	SmartSource Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	4/1/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	4/8/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	4/15/2002	SmartSource Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	4/15/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	4/22/2002	SmartSource Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003

# NAM / Fireman and Raider: Meeting Minutes Exhibit

Document Type	Date	Type of Meeting Minute	Binder
Meeting Minute	4/22/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	5/6/2002	Smart Source Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	5/13/2002	SmartSource Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	5/13/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	5/28/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	6/4/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	6/10/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	6/17/2002	SmartSource Direct Retail Sales Meeting	Retail Sales Meetings 2002-2003
Meeting Minute	6/17/2002	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	6/24/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	7/8/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	7/23/2002	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	9/16/2002	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	9/16/2002	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	10/21/2002	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/11/2002	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/18/2002	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	12/2/2002	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	12/9/2002	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	12/16/2002	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	1/21/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	1/27/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	2/3/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	2/10/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	3/10/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	3/17/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	3/24/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	3/31/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	4/7/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	4/14/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	4/21/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	4/28/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	5/6/2003	Smart Source Direct Manufacturing Sales Meetin	Retail Sales Meetings 2002-2003
Meeting Minute	5/12/2003	SmartSource Direct Manufacturing Sales Meeting	Henri Lellocuhe Disc 2 - Volume II
Meeting Minute	5/12/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	5/19/2003	SmartSource Direct Manufacturing Sales Meeting	Henri Lellocuhe Disc 2 - Volume II
Meeting Minute	5/19/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	5/27/2003	SmartSource Direct Manufacturing Sales Meeting	Henri Lellocuhe Disc 2 - Volume II



# NAM / Fireman and Raider: Meeting Minutes Exhibit

Document Type	Date	Type of Meeting Minute	Binder
Meeting Minute	5/27/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	6/2/2003	SmartSource Direct Manufacturing Sales Meeting	Henri Lellocuhe Disc 2 - Volume II
Meeting Minute	6/2/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	6/16/2003	SmartSource Direct Manufacturing Sales Meeting	Henri Lellocuhe Disc 2 - Volume II
Meeting Minute	6/16/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	6/23/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	6/30/2003	SmartSource Direct Manufacturing Sales Meeting	Henri Lellocuhe Disc 2 - Volume II
Meeting Minute	6/30/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	7/7/2003	SmartSource Direct Manufacturing Sales Meeting	Henri Lellocuhe Disc 2 - Volume II
Meeting Minute	7/7/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	8/4/2003	SmartSource Direct Manufacturing Sales Meeting	Henri Lellocuhe Disc 2 - Volume II
Meeting Minute	8/4/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	8/11/2003	SmartSource Direct Manufacturing Sales Meeting	Henri Lellocuhe Disc 2 - Volume II
Meeting Minute	8/11/2003	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	8/18/2003	SmartSource Direct Manufacturing Sales Meeting	Henri Lellocuhe Disc 2 - Volume II
Meeting Minute	8/18/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	8/25/2003	SmartSource Direct Manufacturing Minute	Henri Lellocuhe Disc 2 - Volume II
Meeting Minute	8/25/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	9/2/2003	SmartSource Direct Manufacturing Sales Meeting	Henri Lellocuhe Disc 2 - Volume II
Meeting Minute	9/2/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	9/8/2003	SmartSource Direct Manufacturing Sales Meeting	Henri Lellocuhe Disc 2 - Volume II
Meeting Minute	9/15/2003	SmartSource Direct Manufacturing Sales Meeting	Henri Lellocuhe Disc 2 - Volume II
Meeting Minute	9/15/2003	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	9/22/2003	SmartSource Direct Manufacturing Sales Meeting	Henri Lellocuhe Disc 2 - Volume II
Meeting Minute	9/22/2003	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	9/29/2003	SmartSource Direct Manufacturing Sales Meeting	Henri Lellocuhe Disc 2 - Volume II
Meeting Minute	10/27/2003	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/3/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/10/2003	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/17/2003	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/24/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	12/1/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	12/12/2003	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	1/9/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	2/9/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	3/1/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	3/22/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	4/5/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails

# NAM / Fireman and Raider: Meeting Minutes Exhibit

Document Type	Date	Type of Meeting Minute	Binder
Meeting Minute	4/19/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	4/26/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	5/3/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	5/10/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	5/17/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	5/24/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	6/14/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	6/21/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	6/28/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	7/6/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	7/12/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	7/12/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	7/19/2004	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	7/19/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	7/19/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	7/26/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	8/2/2004	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	8/9/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	8/16/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	8/16/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	8/23/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	8/30/2004	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	8/30/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	9/7/2004	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	9/7/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	9/7/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	9/13/2004		Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	9/13/2004	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	9/13/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	9/20/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	9/27/2004	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	9/27/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	9/27/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	10/4/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	10/6/2004		Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	10/10/2004	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	10/11/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	10/18/2004	Executive Committee	Miscellaneous Meeting Minute E-mails

# NAM / Fireman and Raider: Meeting Minutes Exhibit

Document Type	Date	Type of Meeting Minute	Binder
Meeting Minute	10/25/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/1/2004	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	11/1/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/1/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/8/2004	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	11/8/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/8/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/15/2004	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	11/15/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/15/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/22/2004	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	11/22/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/22/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/29/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	12/6/2004	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	12/6/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	12/6/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	12/13/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	12/20/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	12/20/2004	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	12/27/2004	Executive Committee	Miscellaneous Meeting Minute E-mails
Meeting Minute	1/3/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	1/3/2005	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	1/10/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	1/10/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	1/10/2005	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	1/21/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	2/5/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	2/10/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	2/10/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	2/18/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	2/22/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	2/22/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	2/28/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	2/28/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	2/28/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	2/28/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	3/4/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III

# NAM / Fireman and Raider: Meeting Minutes Exhibit

Document Type	Date	Type of Meeting Minute	Binder
Meeting Minute	3/14/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	3/14/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	3/14/2005	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	3/18/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	3/21/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	3/21/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	4/1/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	4/4/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	4/4/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	4/8/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	4/11/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	4/11/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	5/2/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	5/2/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	5/6/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	5/9/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	5/13/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	5/16/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	5/16/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	5/23/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	5/23/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	5/27/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	5/31/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	5/31/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	5/31/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	5/31/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	6/3/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	6/6/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	6/10/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	6/13/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	6/13/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	6/20/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	6/27/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	7/1/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	7/5/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	7/11/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	7/15/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	7/21/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III



# NAM / Fireman and Raider: Meeting Minutes Exhibit

Document Type	Date	Type of Meeting Minute	Binder
Meeting Minute	7/25/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	8/1/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	8/4/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	8/8/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	8/8/2005	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	8/11/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	8/22/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	8/25/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	8/29/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	8/29/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	8/29/2005	SmartSource Direct Manufacturer Sales Meeting	Miscellaneous Meeting Minute E-mails
Meeting Minute	9/6/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	9/6/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	9/6/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	9/6/2005	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	9/12/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	9/12/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	9/12/2005	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	9/15/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	9/19/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	9/19/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	9/19/2005	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	9/22/2005	Direct Mail Weekly Status Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	10/3/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	10/10/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	10/17/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	10/17/2005	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	10/24/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	10/31/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	10/31/2005	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/21/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	11/21/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	11/21/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	11/21/2005	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	11/28/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	11/28/2005	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails
Meeting Minute	12/5/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	12/12/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III

# NAM / Fireman and Raider: Meeting Minutes Exhibit

Document Type	Date	Type of Meeting Minute	Binder
Meeting Minute	12/19/2005	SmartSource Direct Manufacturer Sales Meeting	Henri Lellocuhe Disc 2 - Volume III
Meeting Minute	12/19/2005	Manufacturer Sales Meeting Minutes	Miscellaneous Meeting Minute E-mails

## **EXHIBIT 15**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ROBERT FIREMAN and ANN RAIDER,

Plaintiffs,

v.

NEWS AMERICA MARKETING IN-STORE,  
INC.,

Defendant.

CIVIL ACTION NO. 05-1740MLW

**ROBERT FIREMAN'S ANSWERS TO FIRST SET OF INTERROGATORIES  
PROPOUNDED BY THE DEFENDANT**

Pursuant to Federal Rules of Civil Procedure 26 and 33, Plaintiff Robert Fireman ("Mr. Fireman") hereby objects and responds to Defendant News America Marketing In-Store, Inc.'s ("NAM") First Set of Interrogatories as set forth below.

**GENERAL OBJECTIONS**

The following General Answers and Objections are applicable to, and are hereby incorporated by reference into, each and every one of Mr. Fireman's Specific Answers and Objections to each Interrogatory:

1. Mr. Fireman objects to the interrogatories to the extent that they seek information which is protected by the attorney-client privilege, which constitutes work product, or which is otherwise protected from discovery.

2. Mr. Fireman objects to the interrogatories to the extent that they seek information that is not relevant and/or not reasonably calculated to lead to the discovery of admissible evidence.

3. Mr. Fireman objects to the interrogatories on the grounds that they are overly broad and unduly burdensome and/or duplicative.

4. Mr. Fireman objects to the interrogatories, including without limitation the definitions and instructions, to the extent that they purport to impose obligations on him beyond those included in Mass. R. Civ. P. 26 and 33.

5. Mr. Fireman objects to the interrogatories on the grounds that they are vague, ambiguous, and confusing.

6. Mr. Fireman's willingness to answer any particular Interrogatory is not a concession that the subject matter of the particular Interrogatory Answer is relevant to this action or that the answer is admissible at trial.

7. The information disclosed below has been provided after a diligent search. Mr. Fireman reserves the right to supplement these answers.

8. Mr. Fireman reserves the right to rely at the time of trial or in other proceedings in this action upon documents, things, and evidence in addition to that disclosed in these answers regardless of whether any such documents, things, or evidence are newly discovered or currently in existence.

### **ANSWERS TO INTERROGATORIES**

#### **INTERROGATORY NO.: 1**

State the name and current address of each and every expert witness that you intend to call at the trial of this matter, including in your answer:

- (a) the subject matter of the facts and opinions to which each person is expected to testify;

- (b) the substance of the facts and opinions to which each person is expected to testify;
- (c) a summary of the grounds for each opinion, and
- (d) the education, business, professional or other experience, as well as any other facts that will be offered at trial to prove the qualifications of each expert

**ANSWER NO.: 1**

Mr. Fireman has not determined which expert(s), if any, he intends to call as witness(es) on his behalf at the trial in this matter. Mr. Fireman agrees to supplement this answer in compliance with any Pre-Trial Order or Rule of Court.

**INTERROGATORY NO.: 2**

Describe in detail any and all contracts, agreements or understandings between you and NAM.

**ANSWER NO.: 2**

Mr. Fireman objects to this Interrogatory as it is overbroad, vague and neither relevant nor likely to lead to the discovery of admissible evidence. Mr. Fireman further objects by noting that there were countless "contracts, agreements or understandings between me and NAM." It is impossible to recount, in the form of an interrogatory answer, all "contracts, agreements or understandings" reached over several years. Mr. Fireman also incorporates by reference his interrogatory responses 5-7 and 10-12. Subject to this, as well as the above listed General Objections, which are specifically incorporated herein by reference, Mr. Fireman responds as follows:

Consumer Card Marketing, Inc. ("CCMI") was operating as a profitable

company generating over \$8 million dollars in sales in 1999 with a national reputation in the supermarket and other channels as a leader in loyalty marketing. To accelerate its growth and continue to maintain a leadership position, CCMI sought a business relationship with a highly visible national company which could provide sales and financial and other support to deliver on CCMI's five (5) year business plan. NAM approached CCMI, reviewed CCMI's business plan (which was designed to achieve \$50 million in sales growth within five years) and NAM agreed to purchase CCMI with the agreement that it would commit its resources and run CCMI in such a way as to permit it to execute the plan.

NAM agreed to provide CCMI with the use of its expansive retailer and manufacturer sales force who was selling their current products, and expose CCMI to NAM's relationships with worldwide affiliates of News Corporation and the Fox Entertainment Network. The entire premise upon which CCMI entered into the August 13, 1999 Stock Purchase Agreement with NAM was NAM's express agreement, commitment and representation to use its sales force and relationships to support CCMI and sell CCMI's product line to reach the \$50 million sale figure.

NAM represented and agreed that CCMI would continue to operate as an autonomous division of NAM and benefit from its operational and financial support. NAM agreed that Mr. Fireman and Ms. Raider would continue to manage the CCMI's business unit including sales, operations, personnel, and budgets. By way of example only, in a letter dated October 13, 1999, Ms. Raider wrote to Jennifer Jane confirming the parties' agreement that the CCMI name would be maintained and operate as a separate division. This document is incorporated herein by reference pursuant to Fed.

R. Civ. P. 33(c).

According to a press release issued by NAM on August 19, 1999, "Consumer Card Marketing, Inc. represents an exciting opportunity for New America ... not only does it complement our existing in-store marketing services but provides retailers with the foundation to build customer loyalty and aid them in increasing profits through targeted loyalty programs." This message was delivered loudly and publicly by Paul Carlucci but NAM never delivered on its promises and commitments.

Further responding, various agreements and contracts were executed by the Plaintiffs in connection with the August 13, 1999 Stock Purchase Agreement and the Stock Purchase Agreement and subsidiary agreements executed in connection with the Stock Purchase Agreement are incorporated herein by reference pursuant to Fed. R. Civ. P. 33(c).

**INTERROGATORY NO.: 3**

Describe in detail any and all prospects or actual clients of CCMI, SmartSource Direct, or SmartSource iGroup.

**ANSWER NO.: 3**

Mr. Fireman objects to this Interrogatory as it is overbroad, vague and neither relevant nor likely to lead to the discovery of admissible evidence. Mr. Fireman also objects to this request because this information is already within NAM's files and therefore the request is unreasonable and harassing. Upon a narrowing of this Interrogatory, Mr. Fireman will reconsider and respond appropriately.



**INTERROGATORY NO.: 4**

Describe in detail all sales forecasts, budgets, or projections; financial statements; annual gross, net sales and/or profit; customers; and business plans for CCMI, SmartSource Direct and/or SmartSource iGroup.

**ANSWER NO.: 4**

Mr. Fireman objects to this Interrogatory as it is overbroad, vague and neither relevant nor likely to lead to the discovery of admissible evidence. Mr. Fireman also objects to this request this information is already within NAM's files and therefore the request is unreasonable and harassing. Subject to this, as well as the above listed General Objections, which are specifically incorporated herein by reference, Mr. Fireman incorporates by reference NAM's annual business plans, which have been produced by both NAM and the Plaintiffs in this matter. Further responding, NAM's business plans demonstrate conclusively NAM violated its agreement to grow CCMI's business consistent with CCMI's business plan. The business plans have been produced in discovery and are within the files of NAM. These documents are incorporated herein by reference pursuant to Fed. R. Civ. P. 33(c).

**INTERROGATORY NO.: 5**

Describe in detail any differences in the manner in which CCMI was operated, funded, or managed once it was acquired by NAM versus the way in which it was operated, funded or managed prior to the acquisition.

**ANSWER NO.: 5**

Mr. Fireman objects to this Interrogatory as it is overbroad and vague. Mr.

Fireman also incorporates by reference his interrogatory responses 2, 6-7 and 10-12.

Subject to these, as well as the above listed General Objections, which are specifically incorporated herein by reference, Mr. Fireman states as follows:

Prior to the sale, CCMI was operated by Mr. Fireman and Ms. Raider with advice from its Board Members. Upon the sale, control of the business was lost. Mr. Fireman and Ms. Raider wrote the business plan. They hired the staff, built relationships with clients, attended trade shows, created products, developed a relationship with the press and advertised to the market place the value of its products and services. All actions of the company were designed to generate sales and profits based upon the market needs, to update the product lines and to expand market segments. CCMI had no debt.

Upon sale of the company, the business plan was ignored by NAM. NAM consciously elected not to "run" CCMI at all, but rather to use CCMI's parts to enhance and promote other aspects of NAM's business.

NAM dictated to CCMI all decision concerning staffing and salary and imposed their hiring freeze on CCMI's group. NAM set CCMI's budget, then fired staff and consolidated jobs to NAM, thus taking key pieces of CCMI's business and moving them to make NAM's other divisions more profitable. NAM took these actions while leaving no dedicated, trained staff in place for CCMI. NAM dictated how CCMI could interact with NAM's sales staff, who CCMI could hire as consultants, how to negotiate with vendors, the development plan for software, how and when CCMI could attend trade shows, on changing the company name and on CCMI's annual budgets. NAM provided little or no support for finance, dictated when and how speaking engagements would run and the roles and responsibilities for Mr. Fireman and Ms. Raider.

**INTERROGATORY NO.: 6**

Describe in detail each business decision that NAM made relating to CCMI that you assert caused injury to you.

**ANSWER NO.: 6**

Mr. Fireman objects to this Interrogatory as there are literally hundreds of business decisions made by NAM which caused injury and these decisions were made literally on a daily basis. Mr. Fireman also incorporates by reference his interrogatory responses 2, 5, 7 and 10-12. Subject to these, as well as the above listed General Objections, which are specifically incorporated herein by reference, Mr. Fireman provides the following examples of instances where NAM's decision caused the Plaintiffs harm:

- NAM marginalized the role of Mr. Fireman and Ms. Raider - Within a few months of the sale, NAM modified the CCMI's reporting structure. CCMI went from reporting to David DeVoe Jr., the CFO to Henri Lellouche, Vice President, then promoted Mr. Lellouche to Senior Vice President. Mr. DeVoe then created the Smart Source iGroup. By the end of the year, NAM had taken away much of CCMI's sales staff and support structure. Shortly thereafter, CCMI's General Manager Fireman had no direct reports, no ability to control CCMI's budget and numerous projects.
- Ms. Raider and Mr. Fireman were excluded from strategy sessions about the business. On more than one occasion Paul Carlucci declared that he saw no future in targeted direct mail, which was the backbone of CCMI's business and the key to achieving the \$50 million dollar plan. His comments and

actions were consistent with the marginalization of Mr. Fireman and Ms. Raider's roles and responsibilities and NAM's intent not fulfill CCMI's business plan, but rather to break off CCMI's valuable pieces and use them to develop NAM's business elsewhere. Mr. Carlucci's comments also had the practical effect of sending a strong message to the sales staff that CCMI was not an important aspect of NAM's business and that others within the company would be ill served to support CCMI and assist in growing the business.

- NAM eliminated Ms. Raider and Mr. Fireman's position as a "thought leader" for loyalty marketing - CCMI spent years developing a reputation as a leader in loyalty marketing. Ms. Raider and Mr. Fireman attended trade shows, built client relationships and spoke at domestic and international conferences on the subject. Within one year after the sale, all trade shows were eliminated and all speaking engagements cancelled. Ms. Raider and Mr. Fireman were silenced in the marketplace and the brand equity and name recognition which CCMI had built over the preceding eight (8) plus years simply evaporated. Then NAM changed CCMI's name.
- NAM cancelled any and all trade advertising - As early as October 1999, CCMI was precluded from placing any trade advertising about its products under the CCMI name. NAM informed CCMI that there was no budget. Ms. Raider raised this issue with the Executive Vice President of Marketing who said CCMI would have support through their Public Relations firm. The Public Relations firm provided no assistance.

- NAM did not provide the sales support to grow the business - The NAM sales force was reorganized in 1999. Chris Mixon directed the sales force to focus on NAM's sales goals which did not include CCMI products. Human Resources did not provide the required assistance to locate CCMI salespersons to call upon retailers. For example, CCMI was only provided with one new sales person after seven months of joining NAM. This failure caused CCMI to lose the ability to identify opportunities and close business transactions because there was no sales support to perform the sales function.
- For at least the first year after the purchase, the NAM sales force received little or no training concerning CCMI's product lines. NAM sales management refused to provide the time for the sales force to be trained and, as a result, the sales force had no knowledge (or financial incentive) to sell CCMI products.
- In the year 2000, NAM set in place a hiring freeze which precluded CCMI from hiring staff.
- Other than a few individuals for at least one year, the duties of CCMI's manufacturer sales force were performed by the SmartSource.com sales force. The SmartSource.com sales force was directed to focus its selling their products as a priority, to their manufacturer clients and not CCMI's core clients.
- Without input from CCMI, the CCMI retail sales force was eliminated by NAM.
- CCMI was never permitted by NAM to be part of NAM's sales tracking

data base.

- CCMI did not have the required financial administrative support – The finance department was initially run by CCMI's Controller. While he was reassigned to the position of Vice President of Operations, for the following year he remained responsible for executing CCMI's accounts receivable and accounts payable function. NAM refused to provide additional personnel to CCMI to perform these functions. When the function was finally turned over to the NAM organization, they paid little attention to CCMI's accounts receivable and as a result they did not collect all the funds (or funds on time) and did not bill properly for items, resulting in decreased revenue.
- NAM controlled CCMI's staffing and salaries - All technical jobs at CCMI in Boston were eliminated and two employees were relocated to Connecticut. One individual was, in theory, to continue to help CCMI, but the other was to work on NAM projects. This resulted in a loss of CCMI's intellectual capital. NAM hired consultants to do this work instead of full time staff and this expense was charged against CCMI's allotted consulting fees. It was clear and agreed between CCMI and NAM that the consultant fees were to be used for marketing consulting. This misallocation of fees caused CCMI to be unable to retain proper marketing consultants necessary to expand the business. It was also used as a charge to CCMI causing Plaintiffs harm in the earn out calculation.
- In addition, CCMI's Vice President of Information Services was paid a salary of approximately \$80,000. After the sale, and upon conducting a review of salary levels, CCMI determined that this employee's salary was

too low and should be adjusted to reflect the market rate for an employee of his skill. NAM refused to adjust his salary. However, within 30 days, NAM offered this individual a \$50,000 salary increase to move to Connecticut to work for NAM's Information Services department. He accepted. This void left CCMI with no senior technical person in Boston. Within a few short months, this Vice President of Information Services was spending less than 50% of his time on CCMI projects and focusing the majority of his time for SmartSource.com. This is just one of many examples of NAM effectively taking valuable resources of CCMI and utilizing them to grow other aspects of NAM's business, all the while not making any effort whatsoever to replace the resources usurped from CCMI's operations.

- Ms. Raider and Mr. Fireman were prevented from hiring the sales staff they wanted. They were likewise precluded from determining when staff could be added and the salary necessary to attract quality employees. In fact, the personnel shortage was so substantial that CCMI was forced to "borrow" sales people from SmartSource.com to call on CCMI's manufacturer clients. Clearly, these sales people's focus was their own products and CCMI's sales objectives were never achieved.
- The company's reporting functions were divided so there was not one group driving the plan - The CCMI retailer and manufacturer sales forces were divided within NAM. Ms. Raider was in fact the only sales person on the retail sales force from CCMI remaining after one year and she reported to various people in

NAM such as Henri Lellouche, Pat Crock and Marty Garofolo. The CCMI manufacturer sales force continued to report to NAM's Henri Lellouche and then onto Marty Garofolo. There was no focus to drive the CCMI business plan as one company and as a result, the company suffered.

- NAM eliminated the Marketing Analysis (MAS) tool with no other product to replace it – CCMI had over 1,000 supermarkets using the MAS software to track their loyalty card holder programs. NAM unilaterally decided that CCMI would no longer support the software although CCMI had no other internal product to offer clients. CCMI spent the next sixty (60) days directing clients to other companies. CCMI lost client relationships and income as a result of NAM's decision not to "run" CCMI.
- NAM also delayed in funding software development and then mismanaged it. In particular, NAM refused to allow CCMI move forward with completing negotiations to upgrade its proprietary Customer Relationship Marketing Software. NAM required CCMI to wait until they hired a new Chief Information Office and Vice President of Information Services before proceeding. NAM eliminated all technology staff in Boston and forced the move of several technical people to Connecticut to work on NAM's base business and not CCMI.
- The contract to expand the software for CCMI was integrated into NAM's overall plans. As a result, CCMI was required to purchase more "seats" for the software than CCMI required. Nevertheless, CCMI was required to bear an unfair burden of the cost without the benefit. NAM's management of the project was inadequate, since no one at NAM had ever performed



support software, the integration of CCMI's product to the new platform was delayed eighteen (18) months. Thereafter, the software possessed numerous technical issues. The delay left CCMI without a primary tool for its core loyalty management services resulting in a huge loss of business to its competitors Catalina Marketing and Valassis..

- NAM's Senior Management seemed to have little or no interest in assisting CCMI to thwart competition – For example, when CCMI faced competition from Catelina at Pathmark, CCMI requested that Mr. Porco assist in scheduling a meeting with the President of Pathmark to defuse competition. He refused to do so but instead sent a sales representative days later. By this time, the business was already lost.
- NAM did not fund the expansion of the business to keep pace with market trends – CCMI was prevented from expanding the gift card program for retailers. Even when CCMI identified a large market trend in “retailers” gift cards and prepaid products and services, and even where there was no capital outlay required. NAM refused to support CCMI. By way of example, when CCMI was awarded a \$30 million dollars, five (5) year contract to Ahold, NAM ordered CCMI to withdraw from that business as an accommodation to Safeway Marketing Services to secure other business opportunities for NAM, all to the detriment of CCMI and its strategic vendors.
- The Hispanic Market was large and growing and the community had a real need for a stored value money card. Even when CCMI fostered relationships with the White House, built relationships with major banks to

process the transactions and the Mexican business leaders who would promote the product, NAM refused to provide the internal resources or sales support to launch the program.

There are numerous other examples and Mr. Fireman reserves the right to supplement this response or otherwise discuss them in response to questions during deposition.

**INTERROGATORY NO.: 7**

Describe in detail your job at CCMI (or its successor(s)) after it was acquired by NAM and how that job description differed from what you expected that job to be before you started it.

**ANSWER NO.: 7**

Mr. Fireman objects to this Interrogatory as it is overbroad and vague. Mr. Fireman also incorporates by reference his interrogatory responses 2, 5-6 and 10-12. Subject to these, as well as the above listed General Objections, which are specifically incorporated herein by reference, Mr. Fireman states as follows:

Robert Fireman was the President and CEO of CCMI prior to the acquisition. NAM agreed that Mr. Fireman would continue to be the General Manager of the CCMI business unit. His employment contract confirms this position. Notwithstanding these indisputable facts, without discussion or agreement, Mr. Fireman's authority to manage the business, sales, personnel, finance, technology, strategy was removed and taken over by other NAM employees. Major business decisions were made without his knowledge or consent. Other employees were even given business cards similar to Mr. Fireman's, listing the same job title. Mr. Fireman was not allowed to continue to work

on the core businesses of CCMI. He was provided no budget, his administrative staff was removed, and at some point he was ordered not to be present in his Boston office.

Ann Raider was the co-founder of CCMI and the Executive Vice President. All of Sales Staff and Marketing reported to her. Her role included managing the retailer and manufacturer sales forces. All product development, creative services, client services, public relationships and strategic business relationships were led by her. Ms. Raider also managed the P&L. After being acquired, Ms. Raider no longer had any sales or marketing staff reporting to her and no P&L responsibility. She no longer managed any public relations and had no control over strategic business relationships to lead the sales and marketing for CCMI. Given NAM's commitments to her made in the context of the CCMI acquisition, Ms. Raider was supposed to manage an expanded sales force and interact with the national NAM and News Corp sales teams. She was to be actively involved in the product development and marketing execution. She was to continue to develop the consultative technological sales strategy of CCMI. She was to continue to support the Supermarket and Drug Chain Store associations with strategies to reach CCMI's retail base. After the sale, Ms. Raider's authority in all of these matters was either removed or marginalized to the point of irrelevance. Her consulting team was separated. She never got the time or the attention of any of the NAM's sales forces. Ms. Raider was not allowed to hire the sales people, and all these decisions were made by NAM. As budgets continued to be cut, Ms. Raider did not receive any of the staff necessary to implement the business plan. She was then directed to spend her time supporting the NAM retail sales team to sell products other than those of CCMI. To the marketplace, Ms. Raider was the Senior Vice President of News

America as witnessed in her business cards, but she was given essentially none of the attendant job functions or autonomy.

**INTERROGATORY NO.: 8**

Describe in detail any efforts by Plaintiffs to build a sales force for CCMI.

**ANSWER NO.: 8**

Mr. Fireman objects to this Interrogatory as it is overbroad and vague. Subject to this, as well as the above listed General Objections, which are specifically incorporated herein by reference, Mr. Fireman incorporates by reference his Interrogatory Responses 2, 5-7 and 10-12. Further responding, and as discussed in the preceding interrogatory responses, the Plaintiffs were not allowed to hire their own sales team and NAM's promised sales force was directed to focus their efforts on selling products other than CCMI's products and services. Any effort to argue for more support from NAM resulted in threatened reprimands.

**INTERROGATORY NO.: 9**

Describe in detail any communications relating to any offers to form an alliance or business relationship with CCMI or to acquire or merge with CCMI, including but not limited to any and all terms of any such offers, the identify of the parties making such an offer, and CCMI's reasons for accepting or rejecting any such offers.

**ANSWER NO.: 9**

Mr. Fireman objects to this Interrogatory as it is overbroad, vague and neither relevant nor likely to lead to the discovery of admissible evidence. Subject to this, as well as the above listed General Objections, which are specifically incorporated herein by reference, Mr. Fireman responds as follows:

CCMI was being sought for acquisition by companies looking to move into direct marketing and customer loyalty business sectors. They included First Data Corporation, Valasis, Catalina Marketing, Donnelly, RL POLK, GUS, Experian, and a venture group organizing a public company rollup.

The Plaintiffs broke off negotiations and discussions with these groups when NAM made their commitments, promises and agreements with CCMI.

**INTERROGATORY NO.: 10**

Describe in detail any assertions, promises, commitments, assurances, statements, representations, declarations or communications (collective as used in this interrogatory, “promises”) that NAM made to CCMI, Raider or Fireman, as alleged anywhere in the Complaint or elsewhere, including but not limited to any promises made by NAM relating to a plan to operate CCMI as an autonomous division; to allow Fireman or Raider to continue to manage CCMI from Boston; Raider’s or Fireman’s role after the acquisition of CCMI, including but not limited to Raider’s and/or Fireman’s involvement in budgeting, projections, sales goals, making decision, management, strategy, technology purchase, hiring/firing/relocation of employees, or otherwise, including in your response, as to each promise, where such promise was made, to whom it was made, in what medium was it made, and whether there were any witnesses to such a promise.

**ANSWER NO.: 10**

Mr. Fireman objects to this Interrogatory as it is overbroad. Further objecting, it is unreasonable and harassing to require Mr. Fireman to identify “any assertions, promises, commitments, assurances, statements, representations, declarations or communications” between CCMI and NAM. Subject to these, as well as the above listed

General Objections, which are specifically incorporated herein by reference, Mr. Fireman incorporates by reference his interrogatory responses 2, 5-7 and 10-12 which identify numerous “assertions, promises, commitments, assurances, statements, representations, declarations or communications.” These “assertions, promises, commitments, assurances, statements, representations, declarations or communications” were made numerous times at CCMI's office in Braintree, Massachusetts, on the telephone and in New York and Connecticut's NAM offices. These assertions, promises, commitments, assurances, statements, representations, declarations or communications were made by, among others, NAM's acquisition team, including but not limited to David Devoe Jr., Henri Lellouche and John Rubin. The assertions, promises, commitments, assurances, statements, representations, declarations or communications were confirmed several times by phone and at meetings and luncheons in New York at NAM's corporate offices attended by Paul Carlucci, Dominick Porco, Christopher Mixon, Jennifer Jenn, Wayne Campanelli, among others.

The financial plan approved by NAM upon the purchase of the business and specifically the budget developed in October 1999 demonstrate conclusively that CCMI was to be run separately, with CCMI using NAM's sales force. This is evidenced by, among other things, the lack of a large manufacturer sales force head count in the budget.

**INTERROGATORY NO.: 11**

Describe in detail what would have been necessary for CCMI to make an \$8.2 million sales goal from August 1999 to October 2000, as alleged in paragraph 10 of the Complaint, as well as your alleged reasons that CCMI did not make that goal.

**ANSWER NO.: 11**

Mr. Fireman objects to this Interrogatory as it is overbroad. Subject to this, as well as the above listed General Objections, which are specifically incorporated herein by reference, Mr. Fireman incorporates by reference his interrogatory responses 2, 5-7 and 10-12. Further responding, CCMI could have met its sales goals of \$8.2M if NAM had provided the sales and financial support as set out in the plan and run CCMI's business in good faith and as promised. Instead NAM stripped CCMI of its resources and further bogged down CCMI's remaining personnel with unnecessary corporate interference. Among other things, NAM immediately sought to move CCMI's corporate offices, offered CCMI's technical team jobs in Connecticut or terminated them without providing replacement personnel, limited the amount of trade shows and conferences CCMI could attend, refused to hire personnel the Plaintiffs requested, focused the Plaintiffs and CCMI's personnel on the problems of other business units within NAM, and refused to allow CCMI to have the support of the NAM sales force. These and other actions threatened most of the CCMI personnel causing loss of focus and performance. Efforts to argue to keep the CCMI's unit cohesive and together were met with reprimands from NAM executive management. The earnout numbers were negotiated and agreed upon based upon CCMI's historic earnings trajectory. The numbers were chosen as easy targets because the money was intended to be the second half of the purchase price for the business.

By way of example only, per Ms. Raider and Mr. Fireman's letter to David DeVoe Jr. dated October 22, 1999, CCMI was not attaining its goals that CCMI set out to achieve and as promised by NAM. By its letter of December 7, 1999, CCMI sought an

extension of the earnout date based upon NAM's admitted failure to provide the support promised and required. NAM admitted the problem and extended the earnout date. NAM's misconduct is further evidences by Mr. Fireman and Ms. Raider's January 25, 2000 letter to David DeVoe Jr. These documents are incorporated herein by reference pursuant to Fed. R. Civ. P 33(c).

**INTERROGATORY NO.: 12**

Describe in detail your allegations, in paragraphs 13 and 15 of the Complaint, that NAM dismantled CCMI and/or made it impossible for Fireman and Raider to earn their bonuses; withheld the resources CCMI needed to grow its business; overpaid for software; used software purchased for the use of CCMI (or its successor(s)) to support other computer systems within NAM; refused input from Fireman and Raider relating to software or technology; "ostracized" Raider and Fireman; agreed to pursue new products but did not; assimilated CCMI into its other businesses; undermined Raider's and Fireman's role in managing CCMI, either by not including them in strategy decisions or budget approvals, or otherwise; and/or that NAM "forbade" Raider and Fireman from working on products.

**ANSWER NO.: 12**

Mr. Fireman objects to this Interrogatory as it is overbroad. Subject to this, as well as the above listed General Objections, which are specifically incorporated herein by reference, Mr. Fireman incorporates by reference his interrogatory responses 2, 5-7 and 10-12 and further responds as follows:

CCMI was among a very few nationally known leaders of Card Marketing in the supermarket industry. Initial efforts to support the marketing of electronic gift cards into



the supermarket industry were rejected by NAM. This became a multi-million dollar win for CCMI competitors. CCMI tried to salvage some of this marketplace when it won the Ahold Contract for prepaid goods and services. NAM, without the Plaintiffs' knowledge and consent, pulled this business from CCMI in an unethical and possibly illegal side deal with a CCMI's competitor to the direct advantage and benefit of NAM's other business units. This is an example of how NAM cast aside and ignored CCMI's business interests for the benefit of NAM. The details of the events set forth herein are described in memoranda dated October 16, 2000 and January 24, 2001 to Chris Mixon. These memoranda are incorporated herein by reference pursuant to Fed. R. Civ. P. 33(c).

Further responding, rather than expand the proprietary software that was developed by CCMI, NAM made the decision to buy an off-the-shelf CRM software, Epiphany. David Benson, NAM's Chief Information Officer, made this decision, not because it would assist CCMI's business (which it did not), but rather because it supported the interests of NAM in that the software had numerous applications which would support and assist NAM. These applications were of no value to CCMI.

Mr. Fireman was not allowed to be involved in the negotiations for the software. Without the Plaintiffs' knowledge or consent, NAM purchased the software from Epiphany for an exorbitant price so the software would have unlimited users and licenses. This was totally unnecessary for CCMI's needs. More importantly, it utilized virtually the entire budget allowance for CCMI's business plan as set forth in the Acquisition Agreement. This also put CCMI in a negative cash position within the Acquisition Document and cost the Plaintiffs hundreds of thousands of dollars on their annual earn out formula.

**INTERROGATORY NO.: 13**

Describe in detail your allegation in paragraph 15 (ii) of the Complaint that “CCMI’s key personnel were relocated or fired,” including in that description the identity of such person, their current address and telephone number, and whether you believe that NAM “relocated or fired” them in bad faith, arbitrarily or irrationally.

**ANSWER NO.: 13**

Mr. Fireman objects to this Interrogatory as it is overbroad and vague. Subject to this, as well as the above listed General Objections, which are specifically incorporated herein by reference, Mr. Fireman incorporates by reference his interrogatory responses 2, 5-7 and 10-12. Further responding, other than Bill Adam, Mr. Fireman is currently endeavoring to recall the names of the individuals and will supplement this response.

**INTERROGATORY NO.: 14**

Describe in detail any and all conduct of NAM relating to the allegations of your Complaint, that you assert were undertaken in bad faith, arbitrarily, irrationally or with any intent to injure Raider or Fireman.

**ANSWER NO.: 14**

Mr. Fireman objects to this Interrogatory as it is overbroad. It is unduly burdensome and arguably vexatious to seek a detailed description of all of the bad faith conduct that took place over the years NAM employed Mr. Fireman in an interrogatory response. Subject to this, as well as the above listed General Objections, which are specifically incorporated herein by reference, Mr. Fireman incorporates by reference his interrogatory responses 2, 5-7 and 10-12. These interrogatory responses provide

substantial detail concerning NAM's arbitrary irrational and bad faith conduct, conduct which caused Plaintiffs substantial damages.

**INTERROGATORY NO.: 15**

Describe in detail whether you assert that you performed satisfactorily, after CCMI was purchased by NAM, your job responsibilities at CCMI (or its successor(s)), including but not limited to whether you met sales targets or quotas.

**ANSWER NO.: 15**

Mr. Fireman objects to this Interrogatory as it is overbroad and vague. Subject to this, as well as the above listed General Objections, which are specifically incorporated herein by reference, Mr. Fireman states that both he and Ms. Raider performed exemplary in their job responsibilities. To the extent sales targets or quotas were not achieved, it was due to the breaches and bad faith of NAM.

**INTERROGATORY NO.: 16**

Any and all documents relating to your allegation, in paragraph 15(v) of the Complaint, that changing CCMI's name resulted in losses of CCMI's good will.

**ANSWER NO.: 16**

Subject to the above listed General Objections, which are specifically incorporated herein by reference, Mr. Fireman states as follows:

Partnerships are created to achieve better business results than would otherwise be accomplished alone. They accelerate time to market and expedite expansion which would result in increased sales and profits. NAM took CCMI's people, trade relationships and market intelligence for their best interest and not a partnership to drive CCMI. The market statistics demonstrate conclusively that repetition improves

overall ability to recognize brand claims and brand is associated with memory. A brand is an asset of a company which drives value to the corporation itself.

The CCMI brand was eliminated by NAM. CCMI was an independent company that had achieved an international reputation as a leader in loyalty marketing and had earned the respect of the retailers and manufactures as a company they could trust in executing programs and holding customer data. The changing of CCMI's name caused at least two events to occur. First, CCMI no longer had a presence in the market place so the customers in the marketplace were not sure our entity even existed in the loyalty marketing industry. Plaintiffs missed out on sales opportunities since NAM refused to provide sales force and did not allow Plaintiffs to retain their presence at trade shows. Competitors aggressively built their businesses and took market share. The name change added confusion because Smart Source Direct was perceived as part of NAM, not an independent company with all the integrity and reputation as an industry leader.

**INTERROGATORY NO.: 17**

Describe in detail the basis for your assertion, in paragraph 17 of the Complaint, that NAM miscalculated CCMI's "Gross Margin" and/or Earn Out" or bonus payments pursuant to the Stock Purchase Agreement.

**ANSWER NO.: 17**

Subject to the above listed General Objections, which are specifically incorporated herein by reference, Mr. Fireman does not contend in this lawsuit that there was an error in the mathematical formula by which the earnout was calculated. The Plaintiffs contend that NAM's bad faith, deception and breach of the covenant of

good faith and fair dealing precluded and prevented them from achieving the earn-out figures. Further responding and among other things, Plaintiffs do contend that NAM added expenses to the calculation which caused the earnout thresholds to be missed.

**INTERROGATORY NO.: 18**

Describe in detail the value of CCMI, including but not limited to any appraisals or studies, prior to its sale to NAM.

**ANSWER NO.: 18**

Mr. Fireman objects to this Interrogatory as it is overbroad, vague and neither relevant nor likely to lead to the discovery of admissible evidence.

**INTERROGATORY NO.: 19**

Describe in detail any and all payments you received from NAM, including but not limited to salary, bonus payments, "earn out" payments, commissions, other payments, including payments made for the acquisition of CCMI.

**ANSWER NO.: 19**

Mr. Fireman objects to this Interrogatory inasmuch as this information is already within the possession of NAM. To seek information from the Plaintiffs which NAM already possesses is harassing.

**INTERROGATORY NO.: 20**

Describe in detail any and all damages you seek in this lawsuit.

**ANSWER NO.: 20**

Subject to the above listed General Objections, which are specifically incorporated herein by reference, Mr. Fireman states that CCMI had established itself as the industry leader in an emerging marketplace. If NAM had proceeded in good faith,

the Plaintiffs would have achieved each and every threshold necessary to achieve the maximum amount possible under the earnout formula. The NAM projection developed to determine the earn out percentages was presented by NAM's CFO as a conservative guestimate of revenue that would be paid to Plaintiffs. This projection was over Fifteen Million (\$15m) dollars. Plaintiffs' damages also include an additional payment (up to a cap) on revenues above a certain point.

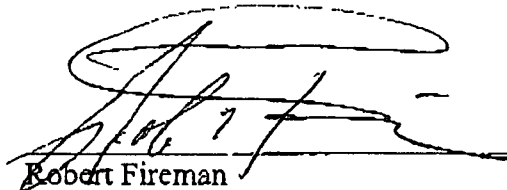
**INTERROGATORY NO.: 21**

Describe in detail all communications between Raider and/or Fireman and NAM, including, but not limited to, communication relating to NAM's calculation of CCMI's (or that of its successor(s)) Gross margin, as that term is used in the Stock Purchase Agreement; either Plaintiffs' job performance; goals, benchmarks, sales targets or the measures of performance of CCMI (or its successor(s)); terms and/or duration of Plaintiffs' employment at NAM, CCMI or CCMI's successor(s); "Fireman and Raider's requirement of no less than \$8 million for the sale of CCMI," as alleged in paragraph 13 of the Complaint; or payments to Raider or Fireman.

**ANSWER NO.: 21**

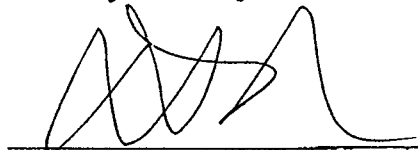
Mr. Fireman objects to this Interrogatory as unduly burdensome and vexatious. He also objects to the extent it purports to seek the disclosure of conversations he had with counsel. Further responding, in conversations with David DeVoe it was made clear that Plaintiffs would have "no trouble" reaching the earn out in the two years yielding the \$8 million for the company based on NAM delivering its obligation.

Signed under the pains and penalties of perjury this \_\_\_\_ day of November,  
2006



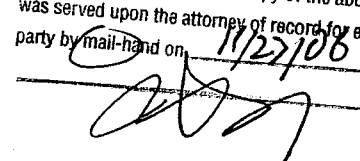
Robert Fireman

Attorney as to Objections



Kevin T. Peters (BBO#550522)  
David H. Rich (BBO#634275)  
Todd & Weld LLP  
28 State Street, 31<sup>st</sup> Floor  
Boston, MA 02109  
(617) 720-2626

Dated: November 27, 2006

**CERTIFICATE OF SERVICE**  
I hereby certify that a true copy of the above document  
was served upon the attorney of record for each other  
party by mail-hand on 11/27/06  


## **EXHIBIT 16**



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

ROBERT FIREMAN and ANN RAIDER,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CIVIL ACTION NO. 05-11740MLW
	)	
NEWS AMERICA MARKETING IN-STORE,	)	
INC.,	)	
	)	
Defendant.	)	

**ROBERT FIREMAN AND ANN RAIDER'S INITIAL  
DISCLOSURES PURSUANT TO FED. R. CIV. P. 26(a)(1)**

Robert Fireman ("Mr. Fireman") and Ann Raider ("Ms. Raider") hereby disclose the following pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure and Local Rule 26.2. Mr. Fireman and Ms. Raider reserve their right to supplement these disclosures as necessary.

**A. Individuals Likely to Have Discoverable Information That Mr. Fireman and Ms. Raider May Use To Support Their Claims**

1. Paul Carlucci  
Chairman  
News America Marketing  
1211 Avenue of the Americas  
New York, New York

Mr. Carlucci possesses information relative to News America Marketing's purchase of Consumer Card Marketing, Inc. ("CCMI"), including but not limited to the negotiations with CCMI and its principals regarding the purchase. Mr. Carlucci possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

2. Henri Lellouche  
Senior Vice President

News America Marketing  
1211 Avenue of the Americas  
New York, New York

Mr. Lellouche possesses information relative to News America Marketing's purchase of CCMI, including but not limited to the negotiations with CCMI and its principals regarding the purchase. Mr. Lellouche possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

3. John Rubin  
Senior Vice President  
News America Marketing  
1211 Avenue of the Americas  
New York, New York

Mr. Rubin possesses information relative to News America Marketing's purchase of CCMI, including but not limited to the negotiations with CCMI and its principals regarding the purchase. Mr. Rubin possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

4. Gene Kline  
Executive Vice President  
News America Marketing  
1211 Avenue of the Americas  
New York, New York

Mr. Kline possesses information relative to News America Marketing's purchase of CCMI. Mr. Kline possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

5. Chris Mixon  
Executive Vice President  
News America Marketing  
1211 Avenue of the Americas  
New York, New York

Mr. Mixon possesses information relative to News America Marketing's purchase of CCMI. Mr. Mixon possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

6. Bill Chrisie  
Chief Information Officer

News America Marketing  
1211 Avenue of the Americas  
New York, New York

Mr. Christie possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

7. David Devoe Sr.  
Chief Financial Officer  
News Corp.

Mr. Devoe possesses information relative to News America Marketing's purchase of CCMI. Mr. Devoe possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

8. Peter Chernin  
President  
News Corp.

Mr. Chernin possesses information relative to News America Marketing's purchase of CCMI. Mr. Chernin possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

9. Lachlan Murdock  
News Corp.

Mr. Murdock possesses information relative to News America Marketing's purchase of CCMI. Mr. Murdock possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

10. David Benson  
Chief Information Officer  
News Corp

Mr. Benson possesses information relative to News America Marketing's purchase of CCMI. Mr. Benson possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

11. Rich Roseman  
Vice President of Information Services  
News America Marketing

1211 Avenue of the Americas  
New York, New York

Mr. Roseman possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

12. Marty Garofalo  
Former Executive Vice President of Sales  
News America Marketing  
1211 Avenue of the Americas  
New York, New York

Mr. Garofalo possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

13. Wayne Campanili  
News America Marketing  
1211 Avenue of the Americas  
New York, New York

Mr. Campanili possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI. Mr. Campanili possesses information relating to News America Marketing's contracts, including its contract with Ms. Raider and Mr. Fireman.

14. John Linguini  
News America Marketing  
1211 Avenue of the Americas  
New York, New York

Mr. Linguini possesses information relating to News America Marketing's finances in 2002 and possesses information relating to News America Marketing's contract with Ms. Raider and Mr. Fireman and the payout provision. Mr. Linguini possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

15. David Devoe Jr.  
Chief Financial Officer  
News Corp.  
Avenue of the Stars  
Los Angeles, CA

Mr. Devoe possesses information relative to News America Marketing's purchase of CCMI, including but not limited to the negotiations with CCMI and its principals regarding the purchase. Mr. Devoe possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI, including but not limited to its finances.

16. Heather Harde  
News Corp.  
Avenue of the Stars  
Los Angeles, CA

Ms. Harde possesses information relative to News America Marketing's purchase of CCMI, including but not limited to the due diligence of CCMI. Ms. Harde possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing, including but not limited to [www.smartsource.com](http://www.smartsource.com).

17. Mike Ricanno  
Chief Financial Officer  
News Corp.  
New York, New York

Mr. Ricanno possesses information relative to News America Marketing's purchase of CCMI, including but not limited to the due diligence of CCMI. Mr. Ricanno possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI, including but not limited to its finances.

18. Dominick Porco  
New York, New York

Mr. Porco possesses information relative to News America Marketing's purchase of CCMI, including but not limited to the due diligence of CCMI. Mr. Porco possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

19. Jennifer Jehn  
Florida

Mr. Jehn possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

20. Chris Bruther

Connecticut

Mr. Bruther possesses knowledge of CCMI's (which later became Smart Source Direct) operations, including its finances, and the operations of News America Marketing as it affected CCMI, including but not limited to its finances.

21. Mike Cleary  
former VP of Smart Source Direct  
General Manager of Mobile Media  
Connecticut

Mr. Cleary possesses knowledge of CCMI's (which later became Smart Source Direct) operations, including its finances, and the operations of News America Marketing as it affected CCMI, including but not limited to its finances.

22. Ed Wogan  
Vertis Corp.  
250 West Pratt  
Baltimore, MD

Mr. Wogan possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI, including but not limited to its finances.

23. Jan Constantine, Esquire  
Address unknown

Ms. Constantine possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the business operations of News America Marketing as it affected CCMI.

24. Deborah Wolf, Esq.  
Formerly of Squadron, Ellenoff, Plesent & Sheinfeld  
551 Fifth Ave  
New York, New York

Ms. Wolf possesses information relative to News America Marketing's purchase of CCMI, including but not limited to the negotiations with CCMI and its principals regarding the purchase.

25. Les Charm  
Professor  
Babson College  
Wellesley, MA

Mr. Charm possesses information relative to News America Marketing's purchase of CCMI, including but not limited to the negotiations with CCMI and its principals regarding the purchase. Mr. Charm possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

26. Diana Fontaine  
Plymouth, MA

Ms. Fontaine possesses information relative to CCMI's operations.

27. Robert Coughlin  
Boston, MA

Mr. Coughlin possesses information relative to CCMI's operations, particularly its finances.

28. Kevin Tripp  
The Gillette Company  
Prudential Center  
Boston, MA

Mr. Tripp possesses information relative to News America Marketing's purchase of CCMI, including but not limited to the negotiations with CCMI and its principals regarding the purchase. Mr. Tripp possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

29. Bill Adam  
Connecticut

Mr. Adam possesses information relative to News America Marketing's purchase of CCMI, including but not limited to the negotiations with CCMI and its principals regarding the purchase. Mr. Adam possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

30. Barry Robinson  
President, Targeted Solutions  
Eliot, Maine

Mr. Robinson possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI.

31. Kevin McKenna  
San Antonio, TX

Mr. McKenna possesses knowledge of CCMI's (which later became Smart Source Direct) operations and the operations of News America Marketing as it affected CCMI. Mr. McKenna also possesses knowledge of the loyalty marketing industry.

32. David Henkin, Esq.  
Goodwin Procter  
Boston, MA

Ms. Henkin possesses information relative to News America Marketing's purchase of CCMI, including but not limited to the negotiations between CCMI and New America Marketing.

33. Kevin Bridgewater  
Vice President  
Marsh Super Markets  
Indianapolis, Indiana

Mr. Bridgewater possesses information relative to CCMI's business as well as information relating to the loyalty marketing industry.

34. David Chinca  
The Kroger Company  
Cincinnati, Ohio

Mr. Chinca possesses information relative to CCMI's business as well as information relating to the loyalty marketing industry.

35. Rich Sterling  
The Kroger Company  
Cincinnati, Ohio

Mr. Sterling possesses information relative to CCMI's business as well as information relating to the loyalty marketing industry.

36. Steve Denny  
Vice President  
The Kroger Company  
Cincinnati, Ohio

Mr. Denny possesses information relative to CCMI's business as well as information relating to the loyalty marketing industry.



37. Christie Coleman  
Bashas Supermarket  
Phoenix, AZ

Ms. Coleman possesses information relative to CCMI's business as well as information relating to the loyalty marketing industry.

38. Jim Nygrin, VP  
Frys Supermarkets  
Phoenix, AZ

Mr. Nygrin possesses information relative to CCMI's business as well as information relating to the loyalty marketing industry.

39. Frank Jack, Controller  
Longs Drugs  
California

Mr. Jack possesses information relative to CCMI's business as well as information relating to the loyalty marketing industry.

40. Steve Prebble Vice President  
Albertsons  
Boise, ID

Mr. Prebble possesses information relative to CCMI's business as well as information relating to the loyalty marketing industry.

41. David Henry, Executive Vice President  
Winn Dixie  
Jacksonville, FL

Mr. Henry possesses information relative to CCMI's business as well as information relating to the loyalty marketing industry.

42. Barry Berman, Executive Vice President  
Stop & Shop Supermarkets  
Braintree, MA

Mr. Berman possesses information relative to CCMI's business as well as information relating to the loyalty marketing industry.

43. Kathy Harkins, Director  
Bilo Supermarkets  
South Carolina

Mr. Harkins possesses information relative to CCMI's business as well as information relating to the loyalty marketing industry.

44. John Wiley, VP  
Grocery Outlet Stores  
California

Mr. Wiley possesses information relative to CCMI's business as well as information relating to the loyalty marketing industry.

45. Eric Blank, President  
Arthur Blank and Co.  
Massachusetts

Mr. Blank possesses information relative to CCMI's business as well as information relating to the loyalty marketing industry.

46. Ron Goad, President  
Oklahoma City, OK

Mr. Goad possesses information relative to CCMI's business as well as information relating to the loyalty marketing industry.

47. Alan Biren, President  
AJ Biren & CO  
Westborough MA

Mr. Biren possesses information relative to CCMI's business as well as information relating to the loyalty marketing industry.

48. Seth Epstein, President  
Tactical Retail Solutions  
Hartford, CT

Mr. Epstein possesses information relative to CCMI's business as well as information relating to the loyalty marketing industry.

49. Carline Thissen  
Retail Solutions  
Naples, FL

Ms. Thissen possesses information relating to the loyalty marketing industry generally.

50. David Diamond  
Diamond, Inc.

New York, New York

Mr. Diamond possesses information relating to the loyalty marketing industry generally.

51. Brian Wolf  
North Carolina

Mr. Wolf possesses information relating to the loyalty marketing industry.

52. Ann Raider  
c/o Todd & Weld LLP  
28 State Street, 31<sup>st</sup> Floor  
Boston, MA 02109

Ms. Raider possesses information relating to the facts as alleged in her complaint.

53. Robert Fireman  
c/o Todd & Weld LLP  
28 State Street, 31<sup>st</sup> Floor  
Boston, MA 02109

Mr. Fireman possesses information relating to the facts as alleged in his complaint.

54. Michael Gafney  
New York, New York

Mr. Gafney possesses information relative to the due diligence performed on CCMI.

**B. Documents, Data Compilations and Tangible Things In the Possession, Custody or Control of Mr. Fireman and Ms. Raider That They May Use To Support Their Claims**

The following is a description by category and location of all documents, data compilations and tangible things within Mr. Fireman and Ms. Raider's possession, custody or control that they may use to support their claims. Unless otherwise noted, the identified categories of documents are located either with counsel or at Ms. Raider and Mr. Fireman's residence.

These documents include:

1. Records of CCMI prior to the sale

2. Stock Purchase Agreement
3. Correspondences protesting lack of action by News America Marketing and earn out issues
4. PowerPoint Presentations to customers
5. Trade Journals which describe the market growth and competitors' positions
6. Original Press Releases of CCMI
7. Email correspondences and other documentary exchanges between CCMI later Smart Source Direct.
8. Fiscal Year Planning Documents and Budgets

**C. Computation Of Any Category of Damages**

At this time, Mr. Fireman and Ms. Raider are unable to quantify their damages suffered as a result of News America Marketing In-Store, Inc.'s misconduct. Further responding, News America Marketing's own records demonstrate that Ms. Raider and Mr. Fireman are owed in excess of \$15,000,000.

**D. Insurance Agreement**

Mr. Fireman and Ms. Raider are plaintiffs in this case and therefore have no insurance agreements relative to this dispute.

ANN RAIDER AND ROBERT FIREMAN

By their attorneys,

/s David H. Rich

Kevin T. Peters (BBO #550522)

David H. Rich (BBO #634275)

Todd & Weld LLP

28 State Street

Boston, MA 02109

(617) 720-2626

Dated: June 1, 2006

## **EXHIBIT 17**

**Katz, Gordon (BOS - X75839)**

**From:** Katz, Gordon (BOS - X75839)  
**Sent:** Friday, May 25, 2007 7:30 PM  
**To:** 'Peters, Kevin'; 'Rich, David H.'  
**Subject:** Fireman/Raider - NAM Litigation: Cognex Corp. v. Electro Scientific Indus. Inc. -- Motion to Compel Restoration and Search of Backup Tapes  
**Importance:** High  
**Attachments:** Westlaw\_Document\_10\_02\_41\_4456.doc; Gordon P Katz.vcf

Kevin,

I know that we have gone back and forth, and have discussed the backup tape issue thoroughly. But I again write to request that you withdraw your pending motion to compel production of backup tapes.

I am forwarding a copy of Judge Lindsay's decision in the *Cognex Corp.* case. I think it is on all fours with the situation we have here. Please consider this decision, and let me know as soon as possible if you will withdraw the pending motion -- so that NAM can avoid incurring unnecessary attorneys fees in preparing its opposition.

Many thanks.

Gordon

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5/31/2007

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Not Reported in F.Supp.2d

Page 1

Not Reported in F.Supp.2d, 2002 WL 32309413 (D.Mass.)

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**H**

Cognex Corp. v. Electro Scientific Industries, Inc.

D.Mass.,2002.

Only the Westlaw citation is currently available.

United States District Court,D. Massachusetts.

COGNEX CORPORATION, Plaintiff,

v.

ELECTRO SCIENTIFIC INDUSTRIES, INC., Defendant.

No. Civ.A. 01CV10287RCL.

Filed Feb. 14, 2001.

July 2, 2002.

represented by Victor H. Polk, Jr., Bingham McCutchen LLP, Boston, MA, Attorney to be Noticed, for Victor H. Polk, Jr., Special Master.

represented by John L. Capone, Cesari & McKenna, LLP, Boston, MA, Lead Attorney, Attorney to be Noticed, Kevin Gannon, Michael E. Attaya, Thomas C. O'Konski, Cesari & McKenna, LLP, Boston, MA, Lead Attorney, Attorney to be Noticed, for Cognex Corporation, Plaintiff.

represented by Claire Laporte, John M. Granberry, Michael V. Dowd, Foley Hoag LLP, Boston, MA, Lead Attorney, Attorney to be Noticed, Mitchell J. Matorin, Foley Hoag LLP, Boston, MA, Lead Attorney, Attorney to be Noticed, Peter B. Ellis, Robert L. Bocchino, Jr., Foley Hoag LLP, Boston, MA, Lead Attorney, Attorney to be Noticed, for Electro Scientific Industries, Inc., Defendant.

represented by Claire Laporte, Michael V. Dowd, Peter B. Ellis, (See above for address), Lead Attorney, Attorney to be Noticed, for Electro Scientific Industries, Inc., Counter Claimant.

represented by Martin J. O'Donnell, Cesari & McKenna, LLP, Boston, MA, Lead Attorney, Attorney to be Noticed, Michael E. Attaya, (See above for address), Lead Attorney, Attorney to be Noticed, for Cognex Corporation, Counter Defendant.

represented by Michael E. Attaya, Thomas C. O'Konski, (See above for address), Lead Attorney, Attorney to be Noticed, for Cognex Corporation, Counter Defendant.

*MEMORANDUM AND RULING OF DISCOVERY MASTER ON MOTION TO COMPEL SEARCH OF  
ELECTRONIC BACK-UP TAPES*

LINDSAY, J.

\*1 Plaintiff Cognex Corporation ("Cognex") has informally moved to compel a search by defendant Electro Scientific Industries, Inc. ("ESI") of its electronic backup tapes for documents responsive to Cognex's requests for production of documents. While conceding that it has not searched the subject back-up tapes, ESI opposes Cognex's motion on the basis that it has already conducted an extensive "reasonable" search for documents and that the cost and burden of the search sought by Cognex is unreasonable.

*Factual Background*

*ESI's Document Search*

ESI's document production and search efforts to date have been extensive. ESI's document search efforts included two attorneys from Foley Hoag traveling to ESI's facilities in Ann Arbor, Michigan and meeting with ESI personnel to devise a comprehensive search plan. Letter of Claire Laporte to Victor H. Polk, Jr., dated June 5, 2002 (the "Laporte Letter") at 1-2.



Not Reported in F.Supp.2d

Page 2

Not Reported in F.Supp.2d, 2002 WL 32309413 (D.Mass.)

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As a result, ESI produced both paper and electronic files from every current employee who had worked on ESI's CorrectPlace product and all former employees who had worked on the product and whose files could be located. Declaration of Patrick Leonard ("Leonard Dec.") ¶¶ 8-12. ESI also searched central paper and electronic repositories identified by employees for files related to CorrectPlace. *Id.* at ¶¶ 15, 19-20. After the discovery of the Wilson memorandum which has been the subject of previous motions, ESI further searched for documents from the files of those listed as recipients on the memo even if they had not worked on the CorrectPlace product. *Id.* at 16. ESI also searched every box kept in off-site storage in Ann Arbor, Michigan for documents relating to CorrectPlace. *Id.* at 17. Lastly, ESI searched for documents in its Portland, Oregon facility, where only a small amount of work on the CorrectPlace product had been done and only a few strategic planning meetings focused on the product had occurred. *Id.* at 14.

As far as hard-copy documents are concerned, the search yielded approximately twenty full boxes of material, of which about ten full boxes turned out to be responsive. Laporte Letter at 2. As far as electronically stored documents are concerned, Foley Hoag received approximately eight CDs of electronic files from ESI, which yielded, after screening for responsiveness, more than thirty full boxes of printed documents. *Id.* Foley Hoag also received and produced electronic copies of multiple versions of source code. *Id.*

The present motion is directed to 820 of ESI's electronic back-up tapes. These tapes were created as information back-ups for the possibility that the company's computers crashed or information otherwise was lost. These tapes cover a period from 1992 through 2001.

It is asserted by ESI that these tapes contain approximately 4 terabytes of data-more than 6000 CD-ROMs. Laporte Letter at 3. If printed, the tapes would yield almost three billion pages of documents. *Id.*

\*2 ESI concedes that these tapes have not been searched for relevant documents. As generalized system back-ups, they may well contain relevant documents. In arguing that it has already conducted a reasonable search, however, ESI provides specifics as to the extent and nature of the search it has already conducted in responding to Cognex's document requests, and the burden the further search sought by Cognex would entail.

In providing detail as to the burden it would incur in conducting such a review, ESI points to the search it did conduct of back-up tapes from the 1988 to 1991 timeframe-tapes covering a time period immediately prior to Cognex's patent filing. Laporte Letter at 3-4. ESI searched these tapes only for source code files, which ESI claims were in a readily recognizable file format that could be isolated relatively quickly. *Id.* at 4.

Even so, it took a seven-person team of Foley Hoag lawyers and paralegals approximately ten weeks' of work to produce the documents, already pre-screened by the client to some degree, contained on the eight CDs produced by ESI to Foley Hoag. *Id.* Even one back-up tape could contain as much as 70 gigabytes of data, or 100 CDs' worth of data, suggesting that the review of the recovered material would consume a substantial amount of time. *Id.*

#### *Cognex Back-Up Tapes*

Cognex has also detailed its search for documents responsive to ESI's request. See Affidavit of Arthur O'Dea, Esq. ("O'Dea Aff."). With regard to its search of its back-up tapes, within Cognex it is the policy of the Information Technology group to back up specific systems onto tape daily. O'Dea Aff. ¶ 10. These systems include Cognex's e-mail and file servers, as well as its many PCs and workstations. *Id.* In accordance with that policy, the back-up tapes go off site for storage, and are retained for four months. *Id.* After four months, the back-up tapes come back to Cognex to be recycled-erased and reused for the next backup. *Id.*

Cognex's source code archives are exempt from the four-month retention policy since the entire source code archive for all products is continuously maintained. *Id.* ¶ 11. Certain source code archive files, however, were lost in a 1995 change of Cognex's source code storage system. *Id.* ¶ 12.

Not Reported in F.Supp.2d  
 Not Reported in F.Supp.2d, 2002 WL 32309413 (D.Mass.)  
**(Cite as: Not Reported in F.Supp.2d)**

Page 3

### *Discussion*

While ESI's principal arguments have to do with the nature of the search it has already conducted and the burden of the further search Cognex now seeks, ESI also argues that the search should not be ordered because the responsive and non-privileged documents uncovered would "likely be duplicative." The fact that ESI has conducted a thorough search of ESI's existing files does not, however, suggest that a search of back-up files would only uncover duplicative documents. The nature of electronic snapshots inherent in back-up tapes—here covering a nine-year period—suggests that material would be caught in those snapshots which, for whatever reason, is no longer available or not stored in a manner that ESI's search previously uncovered. In addition, in light of the sheer volume of data on the **back-up tapes**, it is virtually inconceivable that they do not contain additional relevant material which would be appropriate for **production**.

**\*3** The fact that the back-up tapes are believed to contain relevant documents does not end the inquiry. Federal Rule of Civil Procedure 26 was specifically drafted to allow the District Court control over the scope and extent of discovery in light of the burden and cost of such discovery. As stated in the 1993 Advisory Committee note to Rule 26, Section b: "The information explosion of recent decades has greatly increased both the potential cost of wide-ranging discovery and the potential for discovery to be used as an instrument for delay or oppression ... The revisions in Rule 26(b)(2) are intended to provide the court with broader discretion to impose additional restrictions on the scope and extent of discovery."

In relevant part, Rule 26(b)(2) provides: "The frequency or extent of use of the discovery methods otherwise permitted under these rules and by any local rule shall be limited by the court if it determines ... that the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues."

Were the issue simply whether ESI should be compelled at its own cost and expense to undertake the search requested by Cognex, the answer would be obvious in light of the facts and circumstances here. ESI has established the substantial efforts it has already undertaken to produce extensive documents to Cognex. The search it has already conducted appears to have exceeded any traditional standard for reasonableness. Moreover, the cost of the search sought by Cognex would likely be astronomical. ESI has already utilized the services of an independent electronic discovery consultant and presumably would utilize one for this project. Given the nature of the search already conducted and the burden of providing what is being sought, the burden and expense of the proposed discovery outweighs its likely benefit.

Making the issue here far more difficult is Cognex's willingness to bear the burden of the search it seeks. In its written submissions, Cognex proposes as an alternative to ESI's bearing the cost of the search that the court order the parties to split the cost. Cognex has also indicated that it would, if required, bear the full burden and costs of such a search.

For purposes of this analysis, it is assumed that an order could be crafted so as to substantially shift the economic costs of the proposed search to Cognex while protecting ESI's right to review its documents prior to production. Such an order could provide for the selection of an independent electronic discovery consultant, a mechanism for determining the searches to be conducted, an ability of ESI's counsel to review the designated documents for relevance and privilege and Cognex's payment of the costs of the electronic discovery consultant and even ESI's time in reviewing the documents. *See, e.g., Rowe Entertainment, Inc. v. William Morris Agency, Inc.*, 205 F.R.D. 421 (S.D.N.Y.2002) (providing a detailed discussion of the rationale and appropriateness of cost-shifting in various electronic discovery circumstances and containing a protocol for such discovery).<sup>FN1</sup>

<sup>FN1</sup>. It has also been argued that cost-shifting, especially with regard to electronic data, serves an important purpose of counterbalancing the tendency to ask for more discovery material than economic efficiency would justify because the cost of producing is not being borne by the party making the request. *See* M.H. Pulver, *Electronic Media Discovery: The Economic Benefit of Pay-Per-View*, 21 Cardozo L.Rev. 1379 (2000).

Not Reported in F.Supp.2d

Page 4

Not Reported in F.Supp.2d, 2002 WL 32309413 (D.Mass.)

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\*4 The parties were asked to provide case law concerning whether ESI's objection to such discovery would be obviated by an order shifting the cost to Cognex. None of the cases provided by the parties are terribly helpful on this issue:

- Pew v. Scopino, 904 F.Supp. 18 (D.Me.1995). Upon a party's representation that all documents had been produced and a reasonable search conducted, the court refused to order a re-search for documents. The fact that certain documents may have been missed (as suggested by a third party production) did not justify the burden of re-searching the documents. Unlike *Pew*, however, ESI cannot certify that the back-up tapes were searched and Cognex has offered to incur the expense of a search.

- Simon Property Group L.P. v. MySimon, Inc. 194 F.R.D. 639 (S.D.Ind.2000). In this case, plaintiff was allowed at its own cost to search defendant's computers and to re-create deleted files. In so ordering, however, the court noted that plaintiff had shown "troubling discrepancies with respect to defendant's document production." No such showing has been made here.

- Playboy Enterprises, Inc. v. Welles, 60 F.Supp.2d 1050 (S.D.Cal.1999). The court also allowed plaintiff at its own cost to search defendant's hard drive for deleted emails. The court noted that few emails had been produced by defendant and defendant had a policy (that continued throughout the litigation) of deleting emails without regard to relevance to the pending document request. No such similar circumstance exists here.

The most closely analogous case cited by the parties is McPeck v. Ashcroft, 202 F.R.D. 31 (D.D.C.2001). That case involved claims of retaliation against plaintiff for his making prior claims of sexual harassment. Defendant had searched and produced electronic and paper documents. Plaintiff sought to force defendant to search its back-up tapes for documents that were ultimately deleted but stored in the back-up tapes. As stated by the court:

There is certainly no controlling authority for the proposition that restoring all backup tapes is necessary in every case. The Federal Rules of Civil Procedure do not require such a search, and the handful of cases are idiosyncratic and provide little guidance.

202 F.R.D. at 33. After detailing various considerations in these circumstances, the court ordered a limited search with costs to be allocated later based upon what was found.

The Discovery Master believes that Cognex's willingness to pay for the search of ESI's back-up tapes makes the question of whether ESI should be required to search these tapes a close call. On the record in this case as a whole, however, the Discovery Master will not order the search sought by Cognex.

On the one hand, there is no question in my mind that a search of **back-up tapes** would uncover documents not already **produced**. While ESI has undertaken an extensive search, the very nature of the snapshots reflected in back-up tapes suggests that documents will exist thereon which are no longer in ESI's electronic files. By offering to pay the costs of the search, Cognex greatly diminishes the concern about the burden upon ESI.

\*5 In finding the search to be unwarranted here under the standards set forth in Rule 26(b)(2), however, I rely upon the following considerations:

1. ESI has already conducted an extensive search for relevant documents. At some point, the adversary system needs to say "enough is enough" and recognize that the costs of seeking *every* relevant piece of discovery is not reasonable. This concept is reflected in Rule 26 itself and made express in the Comments thereto.

2. This is not a case where the record reflects the conscious destruction of documents even after receipt of a document request (as in *Welles*) or serious discrepancies in discovery (as in *MySimon*). There is no question but that counsel for plaintiff believes that there has been bad faith in how counsel for defendant has conducted discovery in this case. I disagree. The failure to search back-up tapes itself cannot have been bad faith-the case law does not establish a general duty to search back-up tapes. See McPeck v. Ashcroft, 202 F.R.D. at 33. While Cognex complains about the timing of the disclosure of the existence of the tapes, the fact is that ESI did disclose this information and our system of discovery does not provide an automatic mechanism for determining precisely how a search was conducted. The fact that ESI would have failed earlier to disclose the existence of these un-searched back-up tapes does not suggest bad faith.

Not Reported in F.Supp.2d  
Not Reported in F.Supp.2d, 2002 WL 32309413 (D.Mass.)  
(Cite as: Not Reported in F.Supp.2d)

Page 5

3. This is not the type of case where one would expect the most relevant emails to be deleted at the time. In an employment situation (as in *McPeck* ), it is precisely the informal emails evidencing intent that in the normal course would be destroyed and not kept in company records.

4. There is something inconsistent with our notions of fairness to allow one party to obtain a heightened level of discovery because it is willing to pay for it. There are limits on the number of depositions and interrogatories even though more might well produce relevant information. There is no exception to those limitations based upon one party's willingness to pay. The sense of fairness underpinning our system of justice will not be enhanced by the courts participating in giving strategic advantage to those with deeper pockets. In the cases discussed above where cost-shifting was deemed appropriate, the specific circumstances justifying the discovery appear to be stronger than presented here.

5. I also give weight to the fact that Cognex, by corporate policy, destroys its back-up tapes after four months. There is nothing inherently wrong in the adoption of such a policy and there has been no suggestion of any improper action by Cognex in either the adoption or practice of its policy. The practical effect of such a policy, however, is to preclude others from conducting precisely the type of search sought here-even in those types of cases where back-up tapes would be expected to uncover highly relevant information. In the context of this case and the search already conducted by ESI, having adopted such a policy, Cognex should not be heard to require such a search from ESI without more of a showing than here.

*Ruling*

**\*6** For the foregoing reasons, Cognex's informal motion to compel ESI to search its back-up tapes is hereby DENIED.

D.Mass.,2002.  
Cognex Corp. v. Electro Scientific Industries, Inc.  
Not Reported in F.Supp.2d, 2002 WL 32309413 (D.Mass.)

END OF DOCUMENT

## **EXHIBIT 18**

**Files Reviewed by Fireman and Raider**

**4.0**

**HENRI LELLOUCHE DOCUMENT PRODUCTION**

- 4.01 2000 – 2001 Highlights and Minutes**
  - 4.01.01 Volume 1**
  - 4.01.02 Volume 2**
- 4.02 2001-2001 Salespeople Highlights and Calendar**
- 4.03 Ann Raider Highlights 2002-2003**
- 4.04 ASpen**
  - 4.04.01 Volume 1**
  - 4.04.02 Volume 2**
  - 4.04.03 Volume 3**
  - 4.04.04 Volume 4**
- 4.05 ABT Project**
- 4.06 Braintree to Boston Office Move**
- 4.07 Coupon Card Program**
- 4.08 Donations Direct**
- 4.09 EDialog**
- 4.10 Freeride**
- 4.11 Greenpoints**
- 4.12 iBelong**
- 4.13 Infospace**
- 4.14 Krasdale**
- 4.15 Microsites**
- 4.16 OnVantage**
- 4.17 Produce Warehouse**
- 4.18 Promotions**
- 4.19 Portal Development**
- 4.20 QSI Payments**
- 4.21 Retail Emails**
  - 4.21.01 Volume 1**
  - 4.21.02 Volume 2**
  - 4.21.03 Volume 3**
  - 4.21.04 Volume 4**
  - 4.21.05 Volume 5**
  - 4.21.06 Volume 6**
  - 4.21.07 Volume 7**
  - 4.21.08 Volume 8**
- 4.22 Retail Sales Meetings 2002-2003**
- 4.23 Shopease Program**
- 4.24 Staffing Emails**
  - 4.24.01 Volume 1**
  - 4.24.02 Volume 2**
- 4.25 Stored Value Programs**
  - 4.25.01 Volume 1**

**Files Reviewed by Fireman and Raider**

**4.25.02 Volume 2**  
**4.25.03 Volume 3**  
**4.25.04 Volume 4**

**4.26 Toshiba Project**  
**4.27 TRS and Entrance Targeting**  
**4.27.01 Volume 1**  
**4.27.02 Volume 2**  
  
**4.28 Vortal Pages**  
**4.29 Henri Lellouche Document Production General Binder**  
**4.30 Henri Lellouche Document Production General Binder**

**7.0 ROBERT FIREMAN DOCUMENTS**

**8.0 ANN RAIDER DOCUMENTS**

**9.0 DOCUMENTS SUPPLIED BY DON JACK, JANUARY 2006**

**9.01 Volume 1**  
**9.02 Volume 2**  
**9.03 Volume 3**  
**9.04 Volume 4**  
**9.05 Volume 5**  
**9.06 Volume 6**  
**9.07 Volume 7**  
**9.08 Volume 8**  
**9.09 Volume 9**  
**9.10 Volume 10**

**11.0**  
**11.01 Acquisition of Consumer Card Marketing, Inc. by News America Marketing**  
**In-Store, Inc., August 13, 1999**

**12.0 DOCUMENTS PRODUCED BY WANYE CAMPANELLI**

**13.0 BUDGETS, 2000-2003**

**14.0 JOHN LINGUITI FILE**

**20.0 FURTHER DOCUMENTS SUPPLIED BY NEWS AMERICA**

**20.01 Henri Lellouche Disc Production**

**20.01.01 Volume I**  
**20.01.02 Volume II**  
**20.01.03 Volume III**  
**20.01.04 Volume IV**

**Files Reviewed by Fireman and Raider**

**20.01.05 Volume V**  
**20.01.06 Volume VI**  
**20.01.07 Volume VII**  
**20.01.08 Volume VIII**  
**20.01.09 Volume IX**  
**20.01.10 Volume X**  
**20.01.11 Volume XI**  
**20.01.12 Volume XII**  
**20.01.13 Volume XIII**  
**20.01.14 Volume XIV**  
**20.01.15 Volume XV**  
**20.01.16 Volume XVI**  
**20.01.17 Volume XVII**  
**20.01.18 Volume XVIII**

**20.02 Henri Lellouche Disc 2**

**20.02.01 Volume I**  
**20.02.02 Volume II**  
**20.02.03 Volume III**

**20.03 Marty Garofalo Disc Production**

**20.04 Miscellaneous Meeting Minute E-mails**

**20.05 NAM Executive Committee Meeting (6/21/99 – 12/26/00)**

**20.06 NAM FSI Executive Committee (7/6/99 – 12/26/00)**

**20.07 NAM In-Store Executive Committee (6/22/99 – 12/19/00)**

**20.08 NAM Management Council Meeting (6/28/99 – 9/5/00)**

**20.09 Deborah Wolfe Documents Produced for Review**

**20.09.01 Volume I**  
**20.09.02 Volume II**  
**20.09.03 Volume III**  
**20.09.04 Volume IV**  
**20.09.05 Volume V**



## **EXHIBIT 19**

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
1.	1	1998-2000	Michigan State University	Letters/other documents re: MSU's Food Industry Management Program
2.	1	1998-1999	Michigan State University	Letters/other documents re: CCMI contacts through MSU's Food Industry Management Program
3.	1			Loose pamphlets and brochures re: marketing for food and cards
4.	1	1998-1999	Duane Reade	Various letters/notes re: partnership between News America Marketing/SMARTSOURCE and Duane Reade; Duane Reade's participation in Loyalty Marketing Program and various materials re: the Marketing Program; marketing documents
5.	1	1998	Danier Leather	Danier Leather Database Plan and CCMI proposal
6.	1	2000	Giant Bonus Card	Various proposals and plans regarding Giant Bonus Card
7.	1	1999	Jingle Ball Sweepstakes	Documents re: tie-in between Duane Reade and Jingle Ball tickets
8.	1	1999	Speaker Handouts	NACDS Conference for Regional Chains featuring the Technology Theater - Speaker Handouts
9.	1	1999	Toys 'R Us	Letters/handouts re: presentation to Toys 'R Us
10.	1	1993-1995	Taco Bell	Frequency Program and Rewards Program reports/questionnaires
11.	1	2000	SWOCC.com	Business Plan and notes

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
12.	1	1998-1999	Meijer	Proposal/analysis re: Gift Card program; various notes
13.	1		Michigan State University	MSU Food Industry Coalition brochures
14.	1	1998	Kids Zone	Notes/analysis re: Application software for data tracking purposes
15.	1	1998	Lids	Loyalty Marketing Program proposal/notes
16.	1	1999	Modern Women	Notes/power point re: database marketing options
17.	1	2000	Neiman Marcus	InCircle Membership Benefits and Preview Book
18.	1	1999-2000	Old Navy	Postcard Coupons
19.	1	1999	Old Navy / GAP	Notes/Presentations re: card proposal for Old Navy (GAP)
20.	1	1999	Payless ShoeSource	Customer Loyalty Marketing Proposal materials
21.	1	1998	ShopKo	Materials re: history of ShopKo; Loyalty Program presentation materials
22.	1	1997-1999	Shoppers Drug Mart	Proposals/notes re: Customer Loyalty Program; communications re: initial meetings
23.	1	2000	I Belong	Materials re: presentation/notes for Loyalty Program

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
24.	1	2000	Giant	Materials re: Introduction of Giant BonusCard
25.	1	1998-1999	Kroger	Notes/communication re: production of Employee Benefit and Customer cards
26.	1	1998	Jitney Jungle	Information re: Customer Information Management System
27.	1	2000	Houchens	Communication/proposals re: Targeted Marketing Program
28.	1			Various loose brochures
29.	2			This box is all Actmedia, Inc. not CCMI
30.	2	1990-1991	Sampling	Conocraft and Kellog's materials re: samples/coupon devices
31.	2	1992-1993	Sampling Machine	Materials re: Sampling Machine development
32.	2	1990-1991	Satellite	Marketing materials re: Satellite Technology & Research; also includes folder re: Telecast U.S.P ("A Unique Growth Opportunity for Actmedia, Inc.")
33.	2	1994	Signals	Letter re: end of relationship between Actmedia and Signals
34.	2	1991	Seven 11	7/11 Annual Report; also includes file: "On-Site Media" newspaper re: competition
35.	2	1991	On-Shelf	Potential "On-Shelf" electric advertising; Includes materials re: talking Shelftalk

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
36.	2	1992	Statistics	Various materials re: statistics regarding shopping traits
37.	2	1992-1993	Technologies	Various marketing materials re: new products
38.	2	1992	Tannehill	Materials re: new Ad Screen for in store use (contains various Confidentiality Agreements)
39.	2	1991	Telephone Services	Folders for: "Southwestern Bell," "Sprint Telemedia," and "Telepromotions" - includes materials re: potential partnerships for telepromotion purposes
40.	2	1992	Television Monitors	Magazine: "ResonseTV" re: home shopping
41.	2		Trade Shows/Seminars	Various materials re: Comdex trade show
42.	2	1993	Trends in Marketing	Newspaper article trend to "clear" plastics
43.	2	1991	VBI Data Broadcasting	Communication regarding desire to market product for in-store use in association with ActMedia, Inc.
44.	2	1991	Videos	Materials re: Video Advertising for in-store use
45.	2	1991	Auto. Viedo Rental CNT	Marketing materials re: Keyosk automated video rental units
46.	2		On-Site Media	(EMPTY)
47.	2	1991	Previewtech Video	Communications re: potential sales agreement re: electronic sales

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
48.	2	1991	Video Vending Machines	Notes re: opportunity for video vending machines
49.	2	1992	Worldlink	Notes/communication re: LED signs that ActMedia borrowed from WorldLink for test purposes
50.	2		Advanced Promotion Technologies	Prospectus for Advanced Promotion Technologies
51.	2		Audio Systems	List of various audio systems
52.	2	1991	Instore Satellite Net	Marketing Materials re: "Instore Satellite Network
53.	2	1991	Talking Shelftalker	Letter re: Specifications for unit
54.	2	1992	Carts	Communications/notes re: advertising on carts
55.	2	1992	Cart Clip	Communication/notes re: cart clip system
56.	2	1991	Rolling Researcher	Articles about new technology for cart advertising
57.	2	1988-1991	Supersign	Notes/materials re: Supersign advertising services
58.	2	1992	Carts - Legal	Confidentiality Agreement re: Shopping Cart displays with Tannehill
59.	2		Checkouts	Marketing materials re: signage at checkout locations

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
60.	2	1991	Automated Checkout Machine	Various articles about automated check out registers and purchase of automated checkout company
61.	2	1991	Checkstands	Article about new technology for marketing coupons
62.	2		ESP Card	(EMPTY)
63.	2	1992	Checks/Couponing	Marketing materials re: samples for Certificates/Coupons
64.	2	1993	Couponing	Various articles/materials re: coupon options
65.	2	1991	1991 Couponing GDE	Materials re: coupon history
66.	3			This box is all Actmedia, Inc. not CCMI
67.	3	1997	Research Services	Research materials from "The Computer Board" and "Compuserve" including LexisNexis introductory materials
68.	3	1996	SSN	Materials re: partnership with Supermarket Shopping Network, Inc. for on-line marketing tools
69.	3	1996	Target Rx	Materials re: Target Rx marketing program; includes materials about in-store Kiosks
70.	3	1996-1997	Peapod	Numerous materials re: partnership with Peapod; includes products, marketing plans, notes/emails, articles
71.	3	1996	Retail	Includes materials re: marketing trends via survey; workers and responsible zones; also included is a folder marked confidential with documents re: office heirarchy

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
72.	3		Technology Review	Article (charts) re: communications market
73.	3			Loose Documents
74.	4	1998	Bank Information	
75.	4	1998		Tax, Income Information - includes invoices, analysis, reports
76.	4	1999		Various bank account information
77.	4	1998	CCMI 1998 Invoices	
78.	4	1992-1994	Accounts Receivable	
79.	4	2001	SmartSource iGroup Product Sampling Overview	Includes various product samples
80.	4		VCT Presentation	Versatile Card Technology Product Presentation for CCMI
81.	4	2000	Purchase Orders	
82.	4	1999	Purchase Orders	
83.	4	1996	Financial Analysis	Various reviews of financial information for various accounts



## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
84.	5	2001	ASPen Data Services Workbook	Includes directions for using various services
85.	5	1997-1999	Business Cards	
86.	5		Unlabelled Folder	Various documents: does not seem to have a clear focus - lots of mention of card opportunities but includes various other things
87.	5	2004	Harper Collins	Materials related to Customer Loyalty Marketing Program (especially consumer cards)
88.	5		Loyalty Marketing Products	Binder with SmartSource Direct's Loyalty Marketing Products
89.	6	1996	ActPromote	Various materials (proposals and analysis) re: electronic paperless coupons
90.	6	1996	ACV	Information re: Retail Marketing Analysis
91.	6	1994-1997	Interactive Services Assoc.	Articles and Reports from Interactive Services Association (seems to be a consumer report service)
92.	6	1996	Competitive Overview	ActMedia, Inc. Selected Competitive Overview Report
93.	6	1996	chConferences	Various materials from Food Retail Conferences
94.	6		Event Marketing	(EMPTY)
95.	6	1997	FMI	Documents from FMI Supermarket Industry Convention & Educational Exposition

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
96.	6	1992	ICM Texh	Instant Coupon Machine Marketing Plan
97.	6	1995	ICM vs FSI	Notes re: comparison of two potential product providers
98.	6	1996	Impact	Analysis of sales force
99.	6	1996	Industry - PROMO	Promotional Practices surveys and analysis
100.	6	1996	Internet	Numerous documents re: potential of internet for marketing strategies/how to attack internet re: coupons/ads/etc.
101.	6	1996-1997	Internet-Retailing	Various materials re: development of home grocery shopping (ie internet orders)
102.	6	1996	Local Marketing	Various articles re: spread of AdCart advertising
103.	6	1997	Meal Solutions	Various documents about potential co-marketing with online "meal idea" company
104.	6	1996-1997	Memos In	Numerous Memos received re: different topics
105.	6	1996	NVG - Schedules	Documents re: sales meeting agenda/results and other documents re: sales force/personnel
106.	6	1995-1996	POPAI	Documents from the Point-of-Purchase Advertising Institute (POPAI) - studies/surveys about the consumer marketplace
107.	6		Position Papers	ActMedia's position papers related to various alliances/marketplace conditions

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
108.	6	1996	Research Brain Reserve	Documents from presentation by BrainReserve re: marketing ideas
109.	7	1998	General Posting Journal	
110.	7	1999	Payables Journal	
111.	7		Meijer	Binder of documents related to Meijer account
112.	7	1998	CCMI Financials	
113.	7	1998	Invoices	
114.	8		Data Entry Record Layouts	Record Layouts for various businesses
115.	8		Wegmans Customer File	Various documents related to the Wegmans account.
116.	8	1999	Performance Printing Company Quality Manual	Company and Product Information presentation manual
117.	8	1999	Bank Information	
118.	8	1999	January-June General Posting Journal	
119.	9	1995	County Store List	List of Counties and types of stores by County

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
120.	9		Aislelevision Resource Directory	List of Ad types available at Aislelevision
121.	9	1993-1995	Aislelevision Issues	Documents related to financial issues of Aislelevision (declining revenue but important tool)
122.	9	1994-1995	Freezervision	Documents related to Freezervision (point-of-purchase advertising in freezer section)
123.	9		Cause Marketing	Various documents related to "cause marketing" (cross promotional marketing with such groups as the Muscular Dystrophy Association or March of Dimes)
124.	9	1994	Venture	Materials related to partnership with Venture Stores
125.	9	1994	Mass Merchandise Test	Documents regarding Massachusetts Merchandise Tests (stocks at various stores)
126.	9	1995	Wal-Mart	Materials related to test/results of in-store marketing at WalMart stores
127.	9	1994	KMart	Various letters re: apparent "unauthorized use of ActMedia's marks and products" in Kmart stores
128.	9	1995-1996	DCD	Product materials and test results re: Data Collection Device (electronic - handheld)
129.	9			Loose documents: Documents relate to Venture Stores, plus random coupons
130.	10	1992	Retail Software	Brochure from MarketWare Corporation that does retail software
131.	10	1991-1993	Retail	Various articles and brochures re: retail marketing

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
132.	10	1992	Promotions - Electronic	Brochure from Electronic Sales Promotions company - presents Targeted Shopper's List Program
133.	10	1991	Publications/ Publishers	Various files for multiple potential marketing partners
134.	10		Pop Times In-Store Guide	EMPTY
135.	10	1991	Photography	Communications re: 3-D photo technology
136.	10	1992	Outdoor Advertising	Letter from MEI re: outdoor signage opportunities
137.	10		Non-electronic Signs	Various product descriptions for non-electronic sign options
138.	10	1991	Newspaper Advertising	Company info re: company that "delivers" newspaper readers as consumers
139.	10	1990	New Products Misc.	Product material re: Electronic Sales Promotions new ideas and freezer product
140.	10	1992	Mobile Freezers	In-Store Sales, Inc. presentation binder; letter re: partnership
141.	10	1990-1992	Media One	Notes and material re: Decision Point Media, Inc. Business Plan
142.	10	1992	Market Imaging Systems	Letter re: reasons for working together (MIS is a pre-visit customer targeter)
143.	10		Marketing	EMPTY

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
144.	10	1993	L.E.D. Signs	Notes/presentation materials re: L.E.D. signs
145.	10	1992	Kiosks	Product information for various Kiosk options
146.	10	1992	Joint Ventures	News articles of CBS, Nabisco joint venture
147.	10	1993	Interactive	Product information about various in-store interactive marketing products
148.	10		Home Shopping	Articles/materials re: home shopping options
149.	10	1992	National Cash Register	Communication re: discussions about new shopping cart marketing option
150.	10		Hi-Tech/Electronic Programs	EMPTY
151.	10	1992	Hispanic Programs	Materials re: advertising in Spanish
152.	10	1992	Hansmann's Mills	Materials regarding potential relationship between ActMedia and Hansmann's. Includes various business plans.
153.	10	1991	Ideas In-Store	Product descriptions for in-store promotion options (games and sweepstakes included)
154.	10	1992	FSI's - Sullivan's Marketing	Article about competitor
155.	10	1993	Frequent Shopper Programs	Articles about frequent shopper programs

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
156.	10	1992	FMI	Product brochures for in-store handheld data collecting machines
157.	10	1993	FMI	Information re: Food Marketing Institute Seminar
158.	10	1992	Electric Signs	Various product descriptions for electric signs
159.	10	1993	Display Network, Inc.	Notes/Confidentially Agreement between ActMedia and Display Network, Inc.
160.	11	2003	KVAT	Documents regarding various projects that SmartSource is doing with KVAT Food Stores. Includes proposals and product information, communications, and other material.
161.	11	2002	KVAT	Materials re: stored value and promotional programs for KVAT
162.	11	2001	UNLABELLED	Appear to be documents related to the National Association of Chain Drug Stores Annual Meeting and preparation by SmartSource for the meeting
163.	11	2001	AHOLD	Personal Savings System and Loyalty Marketing proposals for AHOLD. Also includes numerous e-mail discussions between Raider, Fireman, Lellouche and others
164.	11	2001	NACDS Annual Meeting	Documents re: National Association of Chain Drug Stores Annual Meeting
165.	11	2000	NACDS	Documents re: National Association of Chain Drug Stores Annual Meeting
166.	11	1999	Doug Harvey	Various materials relating to Doug Harvey & Associates who appears to be a partner in marketing SmartSource products

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
167.	11		UNLABELLED	Various articles/materials (produced by SmartSource) regarding some of the types of programs they offer.
168.	11	2000	Retail Systems / Portal	Numerous introductory letters to various companies re: CCMI's potential product help. (In response to to Retail trade show?)  Potential webpage portal graphics for SmartSource and partners.
169.	11	1998	Data Mining	Booklets of strategy/purpose of database mining
170.	11		Co-Branded Credit Cards	CCMI documents re: Co-Branding
171.	11			LOOSE CCMI Presentation documents
172.	11		Investor Presentations	Investor Presentation powerpoint pages
173.	11		Frequent Shopper Data	Powerpoint presentation re: Frequent Shopper Data
174.	11	2002	Ice Age Video	Various documents related to the promotional activity involving CCMI and Ice Age
175.	11	2002	Best Practices	CCMI flyers and booklets re: Loyalty Marketing Best Practices/Objectives and Measurements
176.	11	2000	Pizza Hut	Promotional materials re: Pizza Hut
177.	11	2001	Catalina	Contract, proposals, product information for Catalina Marketing Corporation; Powerpoint presentation



## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
178.	11	2002/2001	Digital Kiosk / Platform Entrance Marketing	Digital Kiosk Product flyers IGroup Offer Issuance Platform Booklet
179.	11	2001	Elrick & Lavidge	Documents discussing partnership possibilities; includes proposals for utilizing retailers' databases.
180.	11	2001	Browser	Materials re: Web Browser and Desk Top marketing tools
181.	11	2004	Warner Brothers	Communications and proposal re: Warner Brothers loyalty marketing program
182.	11	2001	Pizza Hut	Notes re: Pizza Hut opportunities
183.	11	1998-2000	Long's	Communications with Long Drug Stores re: SmartSource Loyalty Marketing and Gift Card programs; also includes a powerpoint presentation
184.	11	2001	Pathmark	Pathmark introduction booklet (produced by Catalina Marketing Corporation)
185.	12	1998	CCMI Invoices	Doesn't look like its actually invoices - More likely Bank Transaction Posting Journal
186.	12	1998	Transaction Posting Journal	
187.	12	1998	Purchase Orders	
188.	12	1998	Account Analysis	
189.	12	1995	Account Analysis	

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
190.	12		Plastic Card Printing	Product examples
191.	12	1995	CCMI Presentation Materials	
192.	12	2000	Fry's Food Stores Account Binder	
193.	13	2001	DMA Conference & Exhibition - Chicago	Various programs, guides, and brochures from convention
194.	13	2000		LOOSE - documents re: Rick Brittain Files
195.	13	2000	Sandy	Personnel File: includes evaluation and tracking for Sandra (Sandy) London the Sales Director
196.	13	2003	Winn Dixie	Reports re: products/financial analysis
197.	13	2002-2003	Winn Dixie	Various documents re: Winn Dixie Customer File; includes proposals, communications, etc.
198.	13	2002	Warner Brothers	Notes, communications, brochures re: possible promotional tie-ins with Warner Brothers
199.	13	2002	Wallace Seminar & Trade Show	Documents/products from Wallace convention
200.	13	1998	Sprint	Proposal and presentation re: Loyalty Marketing for Sprint
201.	13	2001-2003	Sutton Place Gourment	Communications, proposals, notes regarding Sutton Place Gourmet Loyalty Program products

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
202.	13	2003	Travel Club	Product brochure re: Ahold Travel Club card
203.	13	2002	Stop & Shop	Various communications/product proposals for tie-ins with Stop & Shop
204.	13	2002	J. Caputo/MC Program	New loyalty marketing option pitched to News America.
205.	13	2003	MGM	File re: potential tie-in with movie "Good Boy!"
206.	13	2003	Marathon Oil	Communications re: estimates for consumer card
207.	13	2001-2002	Kroger	Notes, communications, proposals re: Kroger Marketing Programs
208.	13	2003	Floral Show	Various materials re: "The Super Floral Show" convention
209.	13	2002	Flemming	Presentation materials re: Fleming Loyalty Marketing
210.	13	2002	Happy Harrys	Materials re: Happy Harry's retail store
211.	13	2004	Kmart	Presentation Materials re: Marketing Options
212.	13	2001-2002	Foot Locker	Communications, notes, proposals re: marketing relationship with Foot Locker
213.	13	2002	Foot Locker Pilot	Documents re: installation of customer loyalty marketing plan

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
214.	13	2001-2002	CVS	Notes, proposals re: marketing program
215.	13	2002	BJ	Notes, proposal for BJ's
216.	13		Class Action	Notes, documents re: SmartSource's solution to the problem of class action suits filed by customers
217.	13	2003	Ahold Promotion	Documents re: Travel Club Card promotion for Ahold
218.	13	2003	Ahold Promotion	Documents re: potential travel gift certificate for Ahold
219.	14		UNLABELLED	Appears to be loose documents regarding a variety of things. Includes approvals/invoices/other documents
220.	14		GE Financial	Presentation from GE Financial re: insurance
221.	14		LOOSE	Rest of the documents are loose magazines, brochures, variety of other documents - doesn't seem to be anything specific
222.	15		LOOSE	Borders and Pampers gift products
223.	15	2001/2002	UNLABELLED	Executive Committee meeting notes and agenda
224.	15	2002	Ann Notes	Communications/notes re: multiple potential programs
225.	15	2002	UNLABELLED	Notes, agendas, and highlight reports re: accounts and sales

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
226.	15	2001	Duane Reed	Communications, notes, proposals re: Duane Reed electronic card and promotional programs
227.	15		Duane Reed	More documents re: Duane Reed programs
228.	15	2000	Bashas	Notes and proposals re: Bashas' Customer Loyalty program
229.	15	1999	Brooks	Electronic Gift Card and Loyalty Marketing Proposals for Brooks pharmacy; also, notes
230.	15	2002	FMI Advertising Conference	Materials from the Advertising and Marketing Conference
231.	15	2003	FMI	Materials from Supermarket Industry Convention & Educational Exposition
232.	15	2001	FMI Advertising Conference	Materials from the Advertising and Marketing Conference
233.	15	2002	DMS Show	Materials from Direct Marketing Association Show
234.	15	1999	Market Tech Visitors List	List of retailers and non-retail visitors to Market Tech Show
235.	15	1999	Markettechnics	Various documents related to Markettechnics show
236.	15	2000	Sales Meeting	Materials from Nov. '00 Sales Meeting
237.	15	2000	Sales Meeting	Handouts from Sept. '00 Sales Meeting

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
238.	15	2002	Markettechnics	Materials from Markettechnics Show
239.	15	2002	FMI - Chicago	Materials from FMI Show
240.	15	2004	Payroll Card	SmartSource Payroll Card Program proposals
241.	15	2002	NAM Training	Presentation materials re: targeted e-mailing and loyalty programs
242.	15	2003-2004	Plan	Notes and Presentations re: Business and Sales Plans
243.	15	2002	Retail Sales Meetings	Various materials including e-mails, notes, and agendas re: sales meeting
244.	15	2002-2003	Duane Reade	Communications, proposals re: Electronic Gift Card Program
245.	15		UNLABELLED	Appear to be documents related to sales performance of Ann Raider
246.	16	2005	AARP	Gift Card proposal, communications for AARP
247.	16	2005	Retail Trade Diner Mail	List of retailers and form letter for sales prospects
248.	16	2002	Home Depot	Letters to Home Depot personnel re: gift card
249.	16	2004	Bilo	Redlined version of some contract; documents related to Bi-Lo cellular phone card

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
250.	16	2003, 2005	HEB	Communications, proposals re: desire to provide card products and services
251.	16	2004	Reid Petro.	E-mail re: contact at new company - possible future relationship
252.	16	2004	Sutton Place	E-mails re: card pricing and samples
253.	16	2005	S&H Loyalty Cards	Letter of Commitment with Longs Drug Store
254.	16	2004	Service Master	Potential for gift card program with Servicemaster
255.	16	2005	Pepsi	Proposals, presentations re: stored value product capabilities for PepsiCo
256.	16	2005	Albertsons	Communications, materials about SmartSource Direct's ability to work with Albertsons
257.	16	2005	Bi-Lo	Notes re: presentation to Bi-Lo
258.	16	2003	Irving Oil	Incomplete Products Survey from SmartSource
259.	16		LOOSE	Various materials (articles, products, communications) - no common element
260.	16		UNLABELLED	Various materials - not specific to a particular account
261.	16	2000-2002	Business Cards	Binder with business cards

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
262.	16		Loyalty Marketing Products	Binder with various options for loyalty marketing products
263.	16	2001	Concord	Brochure: "Bypass ISO 8583 Message Format Specifications
264.	16	2000	CompUSA	Notes, proposals, communications re: CompUSA account
265.	16		LOOSE	Loose documents re: Irving Oil and Foot Locker
266.	16	2005	USA Draig	Notes, presenation re: Loyalty/Stored Value Programs
267.	16	2001	E-mail Market	General documents about market for e-mail targeting
268.	17		UNLABELLED	Various documents re: prepaid cell phone program
269.	17	1999	Promotional Analysis	CCMI Promotion Analysis portion of User's Guide; e-mails other documents re: same
270.	17		UNLABELLED	Articles re: Marketing
271.	17	1998	Markettechnics	Various documents from Markettechnics Show
272.	17		UNLABELLED	Presentations re: SmartSource products
273.	17		Ahold Trageted Direct Mail	Communications re: mail program



## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
274.	17	2004	Papa Gino's	Articles, presentations re: stored value cards
275.	17	2002	FMI Show	Documents from FMI Show
276.	17	2002	Ahold Card Orders	Card production materials
277.	17	2002	Ahold RFP	Materials re: beginning of rel'p between Ahold and SmartSource
278.	17	2002	Ahold RFP	Materials re: proposals and products for Ahold
279.	17	2004	NGA	Documents re: presentation to National Grocers Association
280.	17	2003	NGA	Notes re: meeting with NGA representative
281.	17	2002	Marathon Oil	Presentation, proposals, communications, notes re; Marathon Oil account
282.	17	2002	Marathon Tech Doc's	Documents re: points storing and accrual with card
283.	17	2000	Epiphany	Company information, presentation, proposals re: E.piphany
284.	17	2000	Rich Roseman	File with documents re: Rich Roseman
285.	17	2001	Target Connections	Materials re: retailers with connections at Target

## FILES RECEIVED FROM NEWS AMERICA

#	BOX #	DATES	FOLDER TITLE	DESCRIPTION
286.	17	2000		Materials re: employee Jim Mumm - work to improve performance
287.	17	2001	UNLABELLED	Executive Review of Ann Raider
288.	17	2001	Litwin	Communications involving Jim Litwin
289.	17	2002	Appraisal	Appraisal of Ann Raider
290.	17	2001	Appraisal	Appraisal of Ann Raider
291.	17		LOOSE	Documents re: Trade Shows

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## **EXHIBIT 20**

# Holland+Knight

Tel 617 523 2700  
Fax 617 523 6850

Holland & Knight LLP  
10 St. James Avenue  
Boston, MA 02116-3889  
www.hklaw.com

Nathaniel F. Hulme  
617 305 2117  
nathaniel.hulme@hklaw.com

October 26, 2006

VIA HAND DELIVERY

David H. Rich, Esq.  
Todd & Weld LLP  
28 State Street  
Boston, MA 02109

Re: News America Marketing Documents

Dear Mr. Rich:

Enclosed please find the copies you requested from the various News America Marketing documents that were made available to you. They are bates-stamped NAM00325 – NAM03857. As previously agreed, please provide Holland & Knight reimbursement in the amount of \$811.65 for the production of these documents.

Additionally, please find enclosed documents produce by Robert Coughlin in response to his document subpoena. They are bates-stamped RC 0001 – RC 0140. These are being provided without any charge.

Please contact me with any questions you might have.

Very truly yours,



Nathaniel F. Hulme

Cc: Gordon Katz, Esq. (w/o encl.)

## **EXHIBIT 21**

# Holland+Knight

Tel 617 523 2700  
Fax 617 523 6850

Holland & Knight LLP  
10 St. James Avenue  
Boston, MA 02116-3889  
www.hklaw.com

Nathaniel F. Hulme  
617 305 2117  
nathaniel.hulme@hklaw.com

February 9, 2007

VIA MAIL

David H. Rich, Esq.  
Todd & Weld LLP  
28 State Street  
Boston, MA 02109

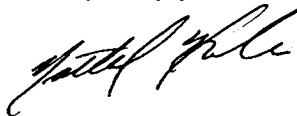
Re: News America Marketing Documents

Dear Mr. Rich:

Enclosed please find the copies you requested from the various News America Marketing documents that were made available to you on Thursday, February, 1. They are bates-stamped NAM03858 – NAM04966. As previously agreed, please provide Holland & Knight reimbursement in the amount of \$88.64 for the production of these documents.

Please contact me with any questions you might have.

Very truly yours,



Nathaniel F. Hulme  
Paralegal

Cc: Gordon Katz, Esq. (w/o encl.)

## **EXHIBIT 22**



Tel 617 523 2700

Fax 617 523 6850

Holland &amp; Knight LLP

10 St. James Avenue

Boston, MA 02116-3889

www.hklaw.com

Nathaniel F. Hulme

617 305 2117

nathaniel.hulme@hklaw.com

April 17, 2007

VIA MAIL

David H. Rich, Esq.  
Todd & Weld LLP  
28 State Street  
Boston, MA 02109

Re: News America Marketing Documents

Dear Mr. Rich:

Enclosed please find the copies of the various News America Marketing Meeting Minutes recently located in our review of News America Marketing's files. They are bates-stamped NAM04967 – NAM07255. As previously agreed, please provide Holland & Knight reimbursement in the amount of \$451.60 for the production of these documents.

Please contact me with any questions you might have.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Nathaniel F. Hulme', written in a cursive style.

Nathaniel F. Hulme  
Paralegal

Cc: Gordon Katz, Esq. (w/o encl.)



## **EXHIBIT 23**

4.01.01

GPK

Client No: 104308-00001

2000-2001 Highlights  
And Minutes - Vol. I

RE: Henri Lellouche  
Document Production

News America Marketing

**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**2000-2001 Highlights  
And Minutes – Vol. 2**

**Client No: 104308-00001**

**GPK**

**4.01.02**

4.02

GPK

Client No: 104308-00001

2001-2001 Salespeople  
Highlights and Calendar

RE: Henri Lellouche  
Document Production

News America Marketing

**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**Ann Raider Highlights  
2002-2003**

**Client No: 104308-00001**

**GPK**

**4.03**

**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**ASpen**

**Client No: 104308-00001**

**GPK**

**4.04.01**

News America Marketing

RE: Henri Lellouche  
Document Production

Aspen Vol. 2

Client No: 104308-00001

GPK

4.04.02

4.04.03

GPK

Client No: 104308-00001

Aspen Vol. 3

News America Marketing  
RE: Henri Lellouche  
Document Production



**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**Aspen Vol. 4**

**Client No: 104308-00001**

**GPK**

**4.04.04**

NEWS AMERICA MARKETING  
- RE: Henri Lellouche Document Production  
ABT Prolect

4.05

**NEWS AMERICA MARKETING**  
**RE: Henri Lellouche Document Production**  
**Braintree to Boston Office Move**

**4.06**

NEWS AMERICA MARKETING  
RE: Henri Lellouche Document Production  
Coupon Card Program

4.07

**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**Donations Direct**

**Client No: 104308-00001**

**GPK**

**4.08**

NEWS AMERICA MARKETING  
RE: Henri Lellouche Document Production  
EDialog

4.09

NEWS AMERICA MARKETING  
RE: Henri Lellouche Document Production  
FreeRide

4.10

**NEWS AMERICA MARKETING**  
**RE: Henri Lellouche Document Production**  
**Greenpoints**

**4.11**



**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**iBelong**

**Client No: 104308-00001**

**GPK**

**4.12**

NEWS AMERICA MARKETING  
RE: Henri Lellouche Document Production  
Infospace

4.13

NEWS AMERICA MARKETING  
RE: Henri Lellouche Document Production  
Krasdale

4.14

4.15

GPK

Client No: 104308-00001

Microsites

Document Production

RE: Henri Lellouche

News America Marketing

NEWS AMERICA MARKETING  
RE: Henri Lellouche Document Production  
OnVantage

4.16

NEWS AMERICA MARKETING  
RE: Henri Lellouche Document Production  
Produce Warehouse

4.17

NEWS AMERICA MARKETING  
RE: Henri Lellouche Document Production  
Promotions

4.18

NEWS AMERICA MARKETING  
RE: Henri Lellouche Document Production  
Portal Development

4.19



**NEWS AMERICA MARKETING**  
**RE: Henri Lellouche Document Production**  
**QSI Payments**

**4.20**

News America Marketing

**RE: Henri Lellouche  
Document Production**

**Retailer Emails Vol. 1**

**Client No: 104308-00001**

**GPK**

**4.21.01**

4.21.02

GPK

Client No: 104308-00001

Retailer Emails Vol. 2

RE: Henri Lellouche  
Document Production

News America Marketing

**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**Retailer Emails Vol. 3**

**Client No: 104308-00001**

**GPK**

**4.21.03**

**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**Retailer Emails Vol. 4**

**Client No: 104308-00001**

**GPK**

**4.21.04**

4.21.05

GPK

Client No: 104308-00001

Retailer Emails Vol. 5

Document Production

RE: Henri Lellouche

News America Marketing

**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**Retailer Emails Vol. 6**

**Client No: 104308-00001**

**GPK**

**4.21.06**

4.21.07

News America Marketing  
RE: Henri Lellouche  
Document Production  
Retailer Emails Vol. 7  
Client No: 104308-00001  
GPK



**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**Retailer Emails Vol. 8**

**Client No: 104308-00001**

**GPB**

**4.21.08**

**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**Retail Sales Meetings  
2002-2003**

**Client No: 104308-00001**

**GPK**

**4.22**

4.23

GPK

Client No: 104308-00001

Shopease Program

Document Production

RE: Henri Lellouche

News America Marketing

**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**Staffing Emails Vol. 1**

**Client No: 104308-00001**

**GPK**

**4.24.01**

**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**Staffing Emails Vol. 2**

**Client No: 104308-00001**

**GPB**

**4.24.02**

**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**Stored Value Programs**

**Client No: 104308-00001**

**GPK**

**4.25.01**

**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**Stored Value Programs  
Vol. 2**

**Client No: 104308-00001**

**GPK**

**4.25.02**

News America Marketing

RE: Henri Lellouche  
Document Production

Stored Value Programs  
Vol. 3

Client No: 104308-00001

GPK

4.25.03



NEWS AMERICA MARKETING  
RE: Henri Lellouche Document Production  
Stored Value Programs Vol. 4

4.25.04

4.26

GPK

Client No: 104308-00001

Toshiba Project

Document Production

RE: Henri Lelouche

News America Marketing

4.27.01

GPK

Client No: 104308-00001

Targeting

TRS and Entrance

Document Production

RE: Henri Lellouche

News America Marketing

4.27.02

GPK

Client No: 104308-00001

TRS and Entrance  
Targeting Vol. 2

RE: Henri Lellouche  
Document Production

News America Marketing

NEWS AMERICAN MARKETING  
RE: Henri Lellouche Document Production  
Vortal Pages

4.28

**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**Client No: 104308-00001**

**GPK**

**4.29**

**News America Marketing**

**RE: Henri Lellouche  
Document Production**

**Client No: 104308-00001**

**GPK**

**4.30**

ROBERT FIREMAN DOCUMENTS  
News America Marketing 104308-00001  
GPK

7.0



ANN RAIDER DOCUMENTS  
News America Marketing  
GPK 104308-00001

8.0

**DOCUMENTS SUPPLIED BY  
DON JACK, JANUARY 2006**

**News America/Fireman & Raider  
104308-00001                      GPK**

**VOLUME 1**

**9.01**

9.02

VOLUME 2

DOCUMENTS SUPPLIED BY  
DON JACK, JANUARY 2006  
News America/Fireman & Raider  
104308-00001  
GPK

**DOCUMENTS SUPPLIED BY  
DON JACK, JANUARY 2006**

**News America/Fireman & Raider  
104308-00001                      GPK**

**VOLUME 3**

**9.03**

**DOCUMENTS SUPPLIED BY  
DON JACK, JANUARY 2006**

**News America/Fireman & Raider  
104308-00001                      GPK**

**VOLUME 4**

**9.04**

**DOCUMENTS SUPPLIED BY  
DON JACK, JANUARY 2006**

**News America/Fireman & Raider  
104308-00001 GPK**

**VOLUME 5**

**9.05**

**DOCUMENTS SUPPLIED BY  
DON JACK, JANUARY 2006**

**News America/Fireman & Raider  
104308-00001                      GPK**

**VOLUME 6**

**9.06**

**DOCUMENTS SUPPLIED BY  
DON JACK, JANUARY 2006**

**News America/Fireman & Raider  
104308-00001 GPK**

**VOLUME 7**

**9.07**



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DON JACK, JANUARY 2006

News America/Fireman & Raider  
104308-00001 GPK

VOLUME 8

9.08

**DOCUMENTS SUPPLIED BY  
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104308-00001                      GPK**

**VOLUME 9**

**9.09**

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News America/Fireman & Raider  
104308-00001  
GPK

VOLUME 10

9.10

11.01

104308-00001

News America Marketing

Re: Fireman & Raider

Acquisition of Consumer Card Marketing, Inc. by

News America Marketing In-Store, Inc. 8/13/99

12.0

104308-00001  
News America Marketing RE: Fireman & Raider  
Documents Produced by Wayne Campanelli  
GPK

13.0

104308-00001  
GPK  
News America Marketing RE: Fireman & Raider  
Budgets, 2000-2003

104308-00001

News America re: Fireman & Raider  
John Linguitti File

GPK

14.0

104308-00001

News America Marketing

RE: Fireman and Raider

Documents Produced by News America Marketing

Henri Lellouche Disc Production

Volume I: NAM03858 – NAM04503

GPK

20.01.01



104308-00001  
News America Marketing  
RE: Fireman and Raider  
Documents Produced by News America Marketing  
Henri Lellouche Disc Production  
Volume II: NAM04504 – NAM05266

GPK

20.01.02

104308-00001

GPK

News America Marketing

RE: Fireman and Raider

Documents Produced by News America Marketing

Henri Lellouche Disc Production

Volume III: NAM05267 – NAM05880

20.01.03

104308-00001  
News America Marketing  
RE: Fireman and Raider  
Documents Produced by News America Marketing  
Henri Lellouche Disc Production  
Volume IV: NAM05881 – NAM06399

GPK

20.01.04

20.01.05

104308-00001  
News America Marketing  
RE: Fireman and Raider  
Documents Produced by News America Marketing  
Henri Lellouche Disc Production  
Volume V: NAM06400 - NAM06922  
GPK

GPK

104308-00001

News America Marketing

News America Marketing

RE: Fireman and Raider

Documents Produced by News America Marketing

Henri Lellouche Disc Production

Volume VI: NAM06923 - NAM07485

20.01.06

GPK

104308-00001

News America Marketing

RE: Fireman and Raider

Documents Produced by News America Marketing

Henri Lellouche Disc Production

Volume VII: NAM07486 – NAM07970

20.01.07

20.01.08

104308-00001  
GPK  
News America Marketing  
RE: Fireman and Raider  
Documents Produced by News America Marketing  
Henri Lellouche Disc Production  
Volume VIII: NAM07971 - NAM08570

104308-00001

GPK

News America Marketing

RE: Fireman and Raider

Documents Produced by News America Marketing

Henri Lellouche Disc Production

Volume IX: NAM08571 – NAM09003

20.01.09



104308-00001  
GPK  
News America Marketing  
RE: Fireman and Raider  
Documents Produced by News America Marketing  
Henri Lellouche Disc Production  
Volume X: NAM109004 - NAM109549

20.01.10

20.01.11

104308-00001  
News America Marketing  
RE: Fireman and Raider  
Documents Produced by News America Marketing  
Henri Lellouche Disc Production  
Volume XI: NAM09550 - NAM10148  
GPK

20.01.12

GPK

104308-00001  
News America Marketing  
RE: Fireman and Raider  
Documents Produced by News America Marketing  
Henri Lellouche Disc Production  
Volume XII: NAM10149 - NAM10838

104308-00001

GPK

News America Marketing

RE: Fireman and Raider

Documents Produced by News America Marketing

Henri Lellouche Disc Production

Volume XIII: NAM10839 – NAM11441

20.01.13

104308-00001

GPK

News America Marketing

RE: Fireman and Raider

Documents Produced by News America Marketing

Henri Lellouche Disc Production

Volume XIV: NAM11442 – NAM11969

20.01.14

20.01.15

104308-00001  
News America Marketing  
RE: Fireman and Raider  
Documents Produced by News America Marketing  
Henri Lellouche Disc Production  
Volume XV: NAM11970 - NAM12612  
GPK

104308-00001

News America Marketing

RE: Fireman and Raider

Documents Produced by News America Marketing

Henri Lellouche Disc Production

Volume XVI: NAM12613 - NAM13271

GPK

20.01.16

104308-00001  
GPK  
News America Marketing  
RE: Fireman and Raider  
Documents Produced by News America Marketing  
Henri Lellouche Disc Production  
Volume XVII: NAM13272 - NAM13901

20.01.17



104308-00001

News America Marketing

RE: Fireman and Raider

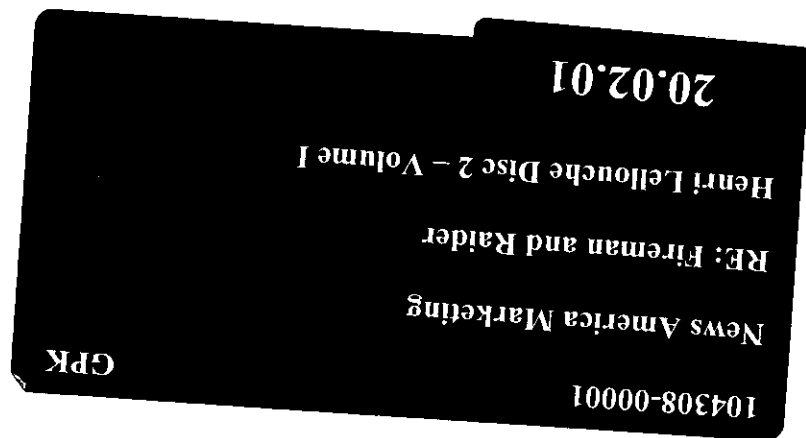
Documents Produced by News America Marketing

Henri Lellouche Disc Production

Volume XVIII: NAM13902 - NAM14422

GPK

20.01.18



104308-00001

GPK

News America Marketing

RE: Fireman and Raider

Henri Lellouche Disc 2 – Volume II

20.02.02

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104308-00001

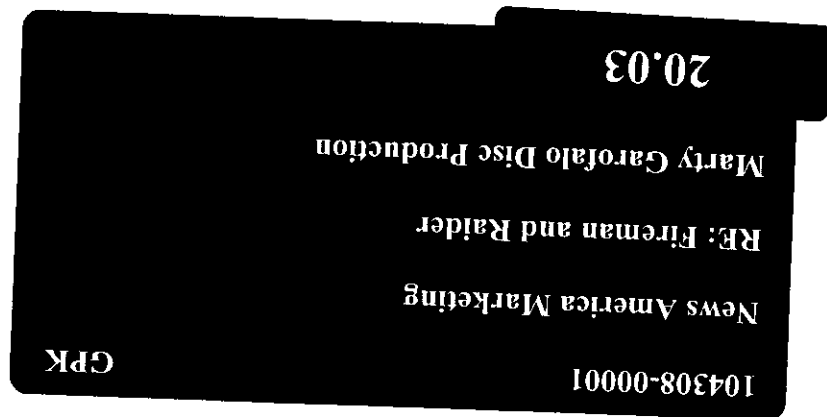
GPK

News America Marketing

RE: Fireman and Raider

Henri Lellouche Disc 2 – Volume III

20.02.03



20.04

Miscellaneous Meeting Minutes (via E-mail)

RE: Fireman and Raider

News America Marketing

104308-00001

GPK

104308-00001

GPB

News America Marketing

RE: Fireman and Raider

NAM Executive Committee (6/21/99 – 12/26/00)

20.05

104308-00001

GPK

News America Marketing

RE: Fireman and Raider

NAM FSI Executive Committee (7/6/99 – 12/26/00)

20.06



104308-00001

GPK

News America Marketing

RE: Fireman and Raider

NAM In-Store Executive Committee (6/22/99 –  
12/19/00)

20.07

104308-00001

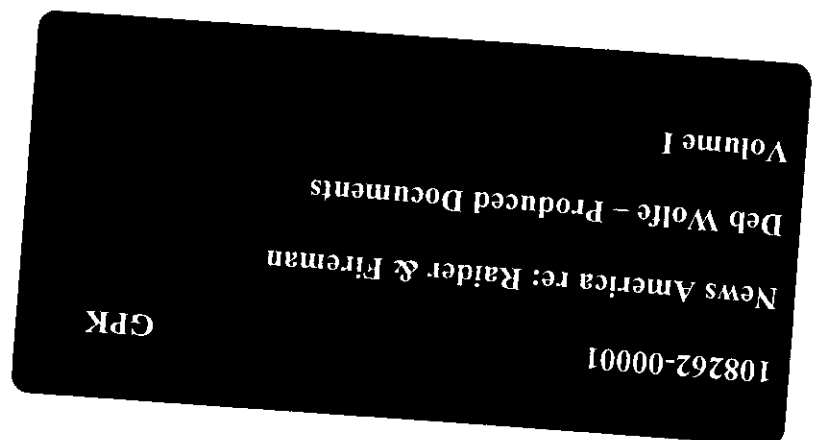
GPB

News America Marketing

RE: Fireman and Raider

NAM Management Council Meeting (6/28/99 –  
9/5/00)

20.08



( )

20.09.02

108262-00001

GPK

News America re: Raider & Fireman

Deb Wolfe – Produced Documents

Volume II

( )

108262-00001  
GPK  
News America re: Raider & Fireman  
Deb Wolfe – Produced Documents  
Volume III

20.09.03

20.09.04

108262-00001

GPK

News America re: Raider & Fireman

Deb Wolfe – Produced Documents

Volume IV

( )

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104308-00001  
GPK  
News America – Fireman & Raider  
Deb Wolfe – Produced Documents  
Volume V

20.09.05

## **EXHIBIT 24**



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PRIVILEGED WORK PRODUCT

**STAGE 1****ESI RESTORATION****Option 1**

Tape restoration cost, if outsourced

1	2	3
Total year end tapes currently available for Chicago, New York, Toronto & Wilton.	Avg. cost per tape to restore.	Total tape restoration cost.
154	x \$ 500.00	= \$ 77,000.00

## YEAR END TAPE RESTORATION ANALYSIS - 154 TAPES

**Option 2**

Tape restoration cost, if done in-house

1	2	3
Cost of data storage servers - 2 dual processor CPU's & two thirty TB RAID arrays. One CPU Array for the pristine data set and one for the working data set.	5 - 6 man weeks of tech time. This includes a mix of CAAS' Director and Technical Specialist time.	Total hardware and personnel cost.
\$ 85,000.00	+ \$ 48,000.00	= \$ 133,000.00

**STAGE 2****OBJECTIVE CULLING, METADATA EXTRACTION, DE-DUPING & KEYWORD / CUSTODIAN SEARCHING**

Processing, common to both in-house and outsourced restoration - (cull, de-dedupe, index &amp; search). This is outsourced

1	2	3	4
Total number of tapes	Number of uncompressed gigabytes per tape to process (cull, de-dedupe, index & search)	Cost per gigabyte to process	Total data culling cost.
154	x 140	x \$ 200.00	= \$ 4,312,000.00

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STAGE 3 PRODUCTION			
Image generation & endorsing.			
1	2	3	4
Total number of GB responsive (.001% of original 21,560 GB restored).	Number of pages per GB (estimated)	Cost per page	Total image generation & endorsing.
21.56	60,000	\$ 0.09	\$ 116,424.00

## ESTIMATED TOTAL COST OF THE TAPE RESTORATION INITIATIVE

Total cost to defensibly restore and search data. This does not include attorney review time.	=	\$ 4,561,424.00 In house restoration
		\$ 4,505,424.00 Outsourced restoration



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PRIVILEGED WORK PRODUCT

**SYNOPSIS****STAGE I - RESTORATION****OPTION I - Outsourced tape restoration**

- 1 - The assumptions are that all 154 tapes have been targeted for full restoration and that they contain potentially responsive semi-structured (exchange email) and unstructured (pst's & loose electronic documents) ESI to be restored. Based on conversations with Alfred McBean, this tape count is expected to increase.
- 2 - The price reflects common industry pricing for the restoration of backup tapes. Pricing ranges from \$250 per tape to \$800. The restoration vendor selected would ensure there is full chain of custody documentation of all steps and processes.
- 3 - Hardware compression creates data storage efficiencies that it can quadruple a tapes normal storage capacity. Compression ratios may vary significantly based on the type of data that is on the tape and the hardware device that is writing the data to backup tape. Consequently, the compressed data on backup tapes may yield significantly more data for "processing" than is currently estimated. If the backed up data was already compressed while in an on-line state, the resulting data multiple could even go as high as 6 times that which is reported on the media. Based on the discussion that I had with Alfred McBean, I am using a multiple of two.

**OPTION II - Outsourced tape restoration**

- 1 - This is the estimated cost of the hardware to required to conduct the initiative if the restoration process is done internally. This assumes that there are enough tape drives to support day to day operational requirements as well as this discovery initiative. If a pristine on-line data set is kept, the cost would double and would be in the \$100k range.
- 2 - This is the estimated amount of time / money that it would take for 1 supervised technician to be allocated to this initiative. It takes into account data transfer rates of the tape data as well as the workflow to mount, dismount, track and deal with problem tapes.
- 3 - Total cost for the hardware and man hours.

**STAGE II - PROCESSING**

- 1 - The assumptions are that all 154 tapes have been targeted for full restoration and that they contain potentially responsive semi-structured (exchange email) and unstructured (pst's & loose electronic documents) ESI to be restored.
- 2 - The data on the backup tapes is written and stored in compressed format. The data compression ratios are expected to range from 2:1 to 4:1. For the purposes of this estimate I used the 2:1 ratio. Assuming each backup tape contains 70 GB of compressed data, the uncompressed data will be  $\geq 140\text{GB}$  per unit.
- 3 - The average price for processing (objective culling; the removal of know non-responsive file types, key word searching, md-5 hash based de-duplication and near de-duplication ranges from \$200 - \$1200 / gb. The price quoted here reflects a good faith estimate based on CAAS' ability to negotiate pricing for these services. This price range is dependent on the type of email systems and loose electronic file data types involved. This also presupposes that the restoration process, as it relates to emails / exchange servers, generated RFC 822 (industry standard) single message format extraction of emails. Given the dynamic nature of the NAM infrastructure and the heterogeneous nature of the data that is backed up, it is difficult to account for every iteration of production, testing and development data type and or associated application that may be required to render the data in a normalized form that would lend itself to a streamlined indexing, searching and review process. This number could increase significantly if unanticipated variables such as data encryption or corruption are encountered.
- 4 - This is the price for the defensible, forensically sound processing of all the data on the backup tapes to provide reasonable certainty that potentially responsive information has not been overlooked.

**STAGE III - PRODUCTION**

Assuming that of the 21560 GB that have been restored, only ~20 GB's of data is responsive (.001%), it would cost approximately \$90,000 to generate images and endorse. This assumes the scenario of 60,000 pages per gb and a tif generation / endorsement charge of \$.09 / page.

Currently the NAM IT organization has no bandwidth to accommodate this initiative, thus the outsourcing of the restoration would be the most viable option, barring data security concerns that would preclude or militate against sending the tapes off-site to a vendor. A12

## **EXHIBIT 25**



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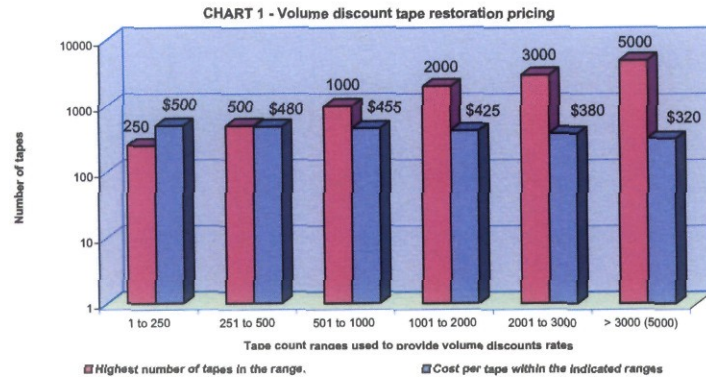
PRIVILEGED WORK PRODUCT

### STAGE 1 ESI RESTORATION

#### Exchange Backup Tape Restoration

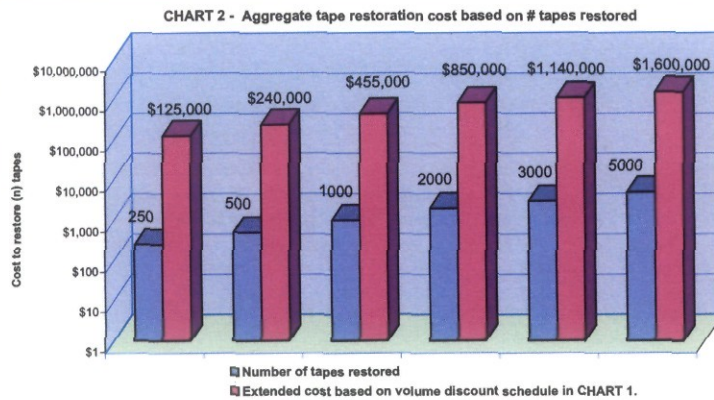
#### CHART 1 DATA

	Backup Tape Volume Ranges	Highest number of tapes in the range.	Cost per tape within the indicated ranges
	A	B	C
1	1 to 250	250	\$ 500.00
2	251 to 500	500	\$ 480.00
3	501 to 1000	1000	\$ 455.00
4	1001 to 2000	2000	\$ 425.00
5	2001 to 3000	3000	\$ 380.00
6	> 3000 (5000)	5000	\$ 320.00



#### CHART 2 DATA

	Number of tapes restored	Extended cost based on volume discount
	A	B
1	250	\$ 125,000.00
2	500	\$ 240,000.00
3	1000	\$ 455,000.00
4	2000	\$ 850,000.00
5	3000	\$ 1,140,000.00
6	5000	\$ 1,600,000.00



### STAGE 2

#### EXCHANGE SERVER RECREATION, CUSTODIAN MAILBOX EXTRACTION, OBJECTIVE CULLING, METADATA EXTRACTION, DE-DUPING & KEYWORD SEARCHING

Processing, common to both in-house and outsourced restoration - (cull, de-dedupe, index & search). This is outsourced

1		2		3		4		5		6		7		8
Exchange server instances to be re-created from restored data.		Flat cost per server to restore, scan and rip target mailboxes or email items from each instance of exchange server.		Total mailbox extraction cost.		Number of responsive mailboxes per exchange server (estimate).		Total number of mailboxes to be "processed" from all restored servers.		Average size of mailbox (GB)		Cost per GB to process		Total cost
1000	x	\$ 125.00	=	\$ 125,000.00		7		7,000	x	0.75	x	\$ 200.00	=	\$ 7,350,000.00

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STAGE 3 PRODUCTION			
Image generation & endorsing.			
1	2	3	4
Total number of GB responsive mailboxes (.001% of original 5,000 GB of Outlook email restored).	Number of pages per GB (estimated)	Cost per page	Total image generation & endorsing.
5	60,000	\$ 0.09	\$ 27,000.00

## ESTIMATED TOTAL COST OF THE TAPE RESTORATION INITIATIVE

Total cost to defensibly restore and search data. This does not include attorney review time.	=	\$ 9,102,000.00	Outsourced exchange backup tape and server restoration
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## SYNOPSIS

## STAGE I - RESTORATION

Outsourced tape restoration

- 1 - The assumptions are that 5000 exchange backup tapes will yield 1000 servers (5:1 ratio). Table 1, value 6C used for 5000 tapes, resulting in value contained in Table 2, cell 6B.
- 2 - The price reflects common industry pricing for the restoration of backup tapes. Pricing ranges from \$250 per tape to \$800. The restoration vendor selected would ensure there is full chain of custody documentation of all steps and processes.
- 3 - Hardware compression creates data storage efficiencies that it can quadruple a tapes normal storage capacity. Compression ratios may vary significantly based on the type of data that is on the tape and the hardware device that is writing the data to backup tape. Consequently, the compressed data on backup tapes may yield significantly more data for "processing" than is currently estimated. If the backed up data was already compressed while in an on-line state, the resulting data multiple could even go as high as 6 times that which is reported on the media. Based on the discussion that I had with Alfred McBean, I am using a multiple of two.

## STAGE II - PROCESSING

- 1 - 1000 servers, restored at \$ 125 / server, yielding 7 mailboxes each, with an average size of .75 gb will generate 5250 gb of data.
- 2 - 5250 gb processed at 200 / GB will cost \$7,350,000 as indicated by Stage 2 column 8.
- 3 - This is the price for the defensible, forensically sound processing of all the data on the backup tapes.

## STAGE III - PRODUCTION

Production estimates are based on standard page counts per gb.

Pricing is based on expedited delivery of data as anticipated in the context of litigation and may vary based on additional parameters not presently considered.

## **EXHIBIT 26**

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PRIVILEGED WORK PRODUCT

**STAGE 1****ESI RESTORATION****Option 1****Tape restoration cost, if outsourced**

1	2	3
Total year end tapes currently available for Wilton, NYC, Toronto & Chicago.	Avg. cost per tape to restore.	Total tape restoration cost.
26	\$ 500.00	\$ 13,000.00

## YEAR END TAPE RESTORATION ANALYSIS - 26 TAPES

**Option 2****Tape restoration cost, if done in-house**

1	2	3
Cost of data storage servers - 2 dual processor CPU's & two thirty TB RAID arrays. One CPU Array for the pristine data set and one for the working data set.	5 - 6 man weeks of tech time. This includes a mix of CAAS' Director and Technical Specialist time.	Total hardware and personnel cost.
\$ 30,000.00	\$ 9,230.00	\$ 39,230.00

**STAGE 2****OBJECTIVE CULLING, METADATA EXTRACTION, DE-DUPING & KEYWORD / CUSTODIAN SEARCHING**

Processing, common to both in-house and outsourced restoration - (cull, de-dedupe, index & search). This is outsourced

1	2	3	4
Total number of tapes	Number of uncompressed gigabytes per tape to process (cull, de-dedupe, index & search)	Cost per gigabyte to process	Total data culling cost.
26	140	\$ 300.00	\$ 1,092,000.00



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PRIVILEGED WORK PRODUCT

<b>STAGE 3</b>			
<b>PRODUCTION (NEGLIGIBLE)</b>			
<b>Image generation &amp; endorsing.</b>			
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Total number of GB responsive (.001% of original 21,560 GB restored).	Number of pages per GB (estimated)	Cost per page	Total image generation & endorsing.
0.0328	60,000	\$ 0.09	\$ 177.12

**ESTIMATED TOTAL COST OF THE TAPE RESTORATION INITIATIVE**

Total cost to defensibly restore and search data. This does not include attorney review time.	=	\$ 1,131,230.00 In house restoration
		\$ 1,105,000.00 Outsourced restoration

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PRIVILEGED WORK PRODUCT

**SYNOPSIS****STAGE I - RESTORATION****OPTION I - Outsourced tape restoration for a subset of year end tapes**

1 - The assumptions are that the following end of year (EOY) tapes have been restored: 8 from New York, fiscal year 2002; 11 from Wilton, fiscal year 2003; 4 from Chicago fiscal year 2003 and 3 from Toronto fiscal year 2003 have been targeted for full restoration and that they contain responsive semi-structured (exchange email) and unstructured (pst's & loose electronic documents) ESI to be restored.

2 - The restoration price reflects common industry pricing for the restoration of backup tapes. Tape restoration prices generally range from \$250 per tape to \$800. The restoration vendor selected would ensure there is full chain of custody documentation of all steps and processes.

3 - Hardware compression creates data storage efficiencies that it can quadruple a tape's normal storage capacity. Compression ratios may vary significantly based on the type of data that is on the tape and the hardware device that is writing the data to backup tape. Consequently, the compressed data on backup tapes may yield significantly more data for "processing" than is currently estimated. If the backed up data was already compressed while in an on-line state, the resulting data multiple could even go as high as 6 times that which is reported on the media. Based on the discussion that I had with Alfred McBean, I am using a multiple of two.

**OPTION II - In-house tape restoration for a subset of year end tapes**

1 - This option covers the estimated cost of the hardware to required to conduct the initiative if the restoration process is done internally. This assumes that there are enough tape drives to support day to day operational requirements as well as this discovery initiative.

2 - This is the estimated amount of time / money that it would take for 1 supervised technician to be allocated to this initiative. It takes into account data transfer rates of the tape data as well as the workflow to mount, dismount, track and deal with problem tapes.

3 - Total cost for the hardware and man hours.

**STAGE II - PROCESSING**

1 - The assumptions are that all 26 tapes have been targeted for full restoration and that they contain semi-structured (exchange email) and unstructured (pst's & loose electronic documents) ESI to be restored.

2 - The data on the backup tapes is written and stored in compressed format. The data compression ratios are expected to range from 2:1 to 4:1. For the purposes of this estimate I used the 2:1 ratio. Assuming each backup tape contains 70 GB of compressed data, the uncompressed data will be >= 140GB per unit.

3 - The average price for processing (objective culling; the removal of know non-responsive file types, key word searching, md-5 hash based de-duplication and near de-duplication ranges from \$200 - \$1200 / gb. The price that I am quoting reflects a good faith estimate based on CAAS' ability to negotiate pricing for these services. This price range is dependent on the type of email systems and loose electronic file data types involved. This also presupposes that the restoration process, as it relates to emails / exchange servers, generated RFC 822 (industry standard) single message format extraction of emails. Given the dynamic nature of the NAM infrastructure and the heterogeneous nature of the data that is backed up, it is difficult to account for every iteration of production, testing and development data type and or associated application that may be required to render the data in a normalized form that would lend itself to a streamlined indexing, searching and review process. This number could increase significantly if unanticipated variables such as data encryption or corruption are encountered.

4 - This is the price for the defensible, forensically sound processing of all the data on the backup tapes to provide reasonable degree of certainty that there is nothing potentially responsive in the collection.

**STAGE III - PRODUCTION**

Production costs are a relatively small dollar amount.

Currently the NAM IT organization has no bandwidth to accommodate this initiative, thus the outsourcing of the restoration would be the most viable option, barring data security concerns that would preclude or militate against sending the tapes off-site to a vendor.